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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at http://www.dccouncil.us.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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DIVISION IV. CRIMINAL LAW AND PROCEDURE AND PRISONERS.

TITLE 22. CRIMINAL OFFENSES AND PENALTIES.

SUBTITLE I. CRIMINAL OFFENSES.

SUBTITLE I. CRIMINAL OFFENSES.

CHAPTER 1. ABORTION.

§ 22-101. Definition and penalty. [Repealed].

Emergency legislation. — For temporary (90 days) amendment of this section, see § 209(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Editor's notes. — Section 209(a) of D.C. Law 19-317 purported to amend this section, but it had previously been repealed.

CHAPTER 3. ARSON.

§ 22-301. Definition and penalty.

Whoever shall maliciously burn or attempt to burn any dwelling, or house, barn, or stable adjoining thereto, or any store, barn, or outhouse, or any shop, office, stable, store, warehouse, or any other building, or any steamboat, vessel, canal boat, or other watercraft, or any railroad car, the property, in whole or in part, of another person, or any church, meetinghouse, schoolhouse, or any of the public buildings in the District, belonging to the United States or to the District of Columbia, shall suffer imprisonment for not less than 1 year nor more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1323, ch. 854, § 820; June 11, 2013, D.C. Law 19-317, § 303(j), 60 DCR 2064.)

Section references. — This section is referenced in § 22-2101, § 22-3152, § 23-546, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(j) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

LAW REVIEWS AND JOURNAL COMMENTARIES

"The District of Columbia Revitalization Act and Criminal Justice: The Federal Government's Assault on Local Authority." 4 The District of Columbia Law Review 77 (1998).

§ 22-302. Burning one's own property with intent to defraud or injure another.

Whoever maliciously burns or sets fire to any dwelling, shop, barn, stable, store, or warehouse or other building, or any steamboat, vessel, canal boat, or other watercraft, or any goods, wares, or merchandise, the same being his own property, in whole or in part, with intent to defraud or injure any other person, shall be imprisoned for not more than 15 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1323, ch. 854, § 821; June 11, 2013, D.C. Law 19-317, § 303(k), 60 DCR 2064.)

Section references. — This section is referenced in § 22-2101, § 23-546, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(k) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-301.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-303. Malicious burning, destruction, or injury of another's property.

Whoever maliciously injures or breaks or destroys, or attempts to injure or break or destroy, by fire or otherwise, any public or private property, whether real or personal, not his or her own, of the value of $1,000 or more, shall be fined not more than the amount set forth in § 22-3571.01 or shall be imprisoned for not more than 10 years, or both, and if the property has some value shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both.

(Mar. 3, 1901, 31 Stat. 1327, ch. 854, § 848; Aug. 12, 1937, 50 Stat. 629, ch. 599; Nov. 8, 1965, 79 Stat. 1307, Pub. L. 89-347, § 1; May 21, 1994, D.C. Law 10-119, § 2(e), 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 105(c), 41 DCR 2608; June 3, 2011, D.C. Law 18-377, § 7, 58 DCR 1174; June 11, 2013, D.C. Law 19-317, § 201(k), 60 DCR 2064.)

Section references. — This section is referenced in § 22-951, § 22-3152, § 23-546, and § 23-581.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted the first occurrence of "not more

than the amount set forth in § 22-3571.01" for "not more than $5,000" and the second occurrence of "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(k) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Arrest.
Defenses.
Merger of offenses.
Sentence and punishment.
Weight and sufficiency of evidence.

Arrest.

Where an arrestee allegedly was hit by a car, the arresting officer was entitled to qualified immunity as to the arrestee's Fourth Amendment unlawful arrest claim because a reasonable officer could have found probable cause to arrest the arrestee for destruction of property since, inter alia, the men in the car told the officer that the arrestee got on the hood of the car and started smashing the windshield with a foot, there was corroborating physical evidence, and the officer did not have an obligation to conduct further investigation. Page v. Mancuso, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 170758 (D.D.C. Dec. 4, 2013).

Defenses.

Trial court did not plainly err in failing to raise sua sponte the issue of whether defendant had been adequately provoked, as justification defense in prosecution for malicious destruction of property; defendant specifically testified that when he got into police transport van, a door of which he was accused of denting, he was no longer mad, defendant also claimed that he actually did nothing at all to the van, and given these confusing positions before the trial court, it was difficult to conclude that the error was clear or obvious, and that the trial court should have sua sponte raised provocation. Brannon v. United States, 43 A.3d 936, 2012 D.C. App. LEXIS 162 (2012).

Defendant's malicious destruction of property conviction under D.C. Code § 22-303 was supported by sufficient evidence as his defense based on the purported reasonable belief that a telecommunications manager had the apparent authority to enter into a cable cutting agreement for a kickback failed, as defendant did not have a reasonable belief, at the time of contracting, that the manager had authority to enter into the agreement. Castoreno v. United States, 65 A.3d 1172, 2013 D.C. App. LEXIS 265 (2013).

Merger of offenses.

Malicious destruction of property statute contemplates a separate offense as to the destruction of each separate victim's property, rather than the destruction of "property" in some more-general sense. Therefore, defendant's two convictions for malicious destruction of property did not merge due to double jeopardy principles, as each was based on a separate criminal act against a separate victim. Vines v. United States, — A.3d —, 2013 D.C. App. LEXIS 616 (July 11, 2013).

Sentence and punishment.

Two malicious destruction charges did not merge because each conviction was the result of a separate criminal act against a separate victim where the convictions were the result of defendant's two distinct collisions with two separate victims during a car chase; victims three and four suffered injuries to their interests in their respective vehicles. Vines v. United States, 70 A.3d 1170, 2013 D.C. App. LEXIS 395 (2013).

Weight and sufficiency of evidence.

Evidence was sufficient to support defendant's conviction for the malicious destruction of property, in violation of D.C. Code § 22-303, because (1) defendant's parent came home to find that the lock on the door leading from the common basement of a duplex, which duplex the parent shared with defendant, to the parent's side of the duplex was broken and that the door jamb was damaged; and (2) defendant later told the parent that defendant had broken the door to gain access to the parent's side of the duplex. The physical evidence and defendant's admissions that defendant broke the door to gain entry established all the elements of destruction of property, and no special showing of intent was necessary beyond defendant's admissions about purposefully breaking the

door. Best v. United States, 66 A.3d 1013, 2013 D.C. App. LEXIS 276 (2013).

Defendant's malicious destruction of property (MDP) conviction under D.C. Code § 22-303 was supported by sufficient evidence as: (1) both the specific intent and conscious disregard states of mind were included in the definition of malice for MDP review; (2) specific intent to damage another's property with some value and without justification, excuse, or mitigation was enough to constitute actual malice; (3) defendant had specific intent to cut the cable, sell it to a recycling center and give a kickback to the telecommunications manager; and (4) defendant's actions were not justified, excused or mitigated by his unauthorized agreement with the telecommunications manager. Castoreno v. United States, 65 A.3d 1172, 2013 D.C. App. LEXIS 265 (2013).

Defendant's malicious destruction convictions were supported by sufficient evidence since defendant acted with malice where he fled police at a high rate of speed, drove down the wrong side of the road, ran through a red light, and collided with multiple vehicles, which suggested a high degree of recklessness; it could be inferred that defendant acted willfully and in spite of a plain and strong likelihood that his actions would result in property damage. Vines v. United States, 70 A.3d 1170, 2013 D.C. App. LEXIS 395 (2013).

Evidence that defendant, while fleeing police, crashed his car into two vehicles was sufficient to convict him of malicious destruction of property, as the jury could have reasonably inferred from his recklessness that he acted willfully and in spite of a plain and strong likelihood that his actions would result in property damage. Vines v. United States, — A.3d —, 2013 D.C. App. LEXIS 616 (July 11, 2013).

Applied in Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

CHAPTER 4. ASSAULT; MAYHEM; THREATS.

§ 22-401. Assault with intent to kill, rob, or poison, or to commit first degree sexual abuse, second degree sexual abuse or child sexual abuse.

Every person convicted of any assault with intent to kill or to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse, or to commit robbery, or mingling poison with food, drink, or medicine with intent to kill, or wilfully poisoning any well, spring, or cistern of water, shall be sentenced to imprisonment for not less than 2 years or more than 15 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 803; Dec. 27, 1967, 81 Stat. 736, Pub. L. 90-226, title VI, § 601; May 23, 1995, D.C. Law 10-257, § 401(b)(2), 42 DCR 53; June 11, 2013, D.C. Law 19-317, § 303(d), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21, § 11-502, § 22-3007, § 22-3152, § 22-4001, § 24-112, § 24-403, and § 24-403.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(d) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Conspiracy.

In a case involving robbery, aggravated assault, assault with significant bodily injury, and assault with intent to rob, there was sufficient evidence from which the jury could have inferred an agreement to commit a robbery where a young boy inquired about what was in the victims' pockets, several participants were apparently loitering with a purpose in front of a hotel prior to the attack, and both appellant and another participant called for assistance from a gunman. Collins v. United States, 73 A.3d 974, 2013 D.C. App. LEXIS 499 (2013).

Merger of offenses.

Defendant's four convictions for assault with intent to rob while armed, under D.C. Code §§ 22-401 and 22-4502, did not merge into one for sentencing because, while defendant pointed a gun at the four victims and demanded money, a second gunman, who walked behind the victims, aimed the gun at the group, moving the gun between different people. As the second gunman was defendant's co-conspirator, defendant was vicariously liable for the second gunman's four assaults, one for each member of the group of four victims. Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012).

Weight and sufficiency of evidence—Identity of persons or things.

— Assault with intent to kill, weight and sufficiency of evidence.

Evidence was sufficient to support defendants' convictions for assault with intent to kill while armed because one defendant made statements which indicated an intent to rob the victim, both defendants were armed when they met with the victim when a third person sought to buy marijuana from the victim, both defendants pulled out their guns, one defendant said to give it up, and one defendant shot the victim while the other defendant shot a person who was with the victim. Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

— Assault with intent to rob, weight and sufficiency of evidence.

Evidence was sufficient to support defendant's convictions, on a conspiracy theory, for aggravated assault while armed, under D.C. Code §§ 22-404.01 and 22-4502, and assault with intent to rob while armed, under D.C. Code §§ 22-401 and 22-4502, because (1) one of the victims testified that the victim saw defendant put on a black ski mask and lead other perpetrators to the four victims; (2) defendant pointed a gun at the victims and demanded money; (3) a second gunman, who walked behind the victims, aimed the gun at the group, moving the gun between different people; (4) after defendant took money from one of the victims, that victim and defendant wrestled over defendant's gun; (5) defendant fled with defendant's gun; and (6) the second gunman kept the gun trained on that victim and shot that victim about 15 seconds after defendant fled. Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012).

§ 22-402. Assault with intent to commit mayhem or with dangerous weapon.

Every person convicted of an assault with intent to commit mayhem, or of an assault with a dangerous weapon, shall be sentenced to imprisonment for not

more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 804; June 11, 2013, D.C. Law 19-317, § 303(e), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21, § 7-2508.01, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(e) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Admissibility of evidence.

— Other offenses, admissibility of evidence.

Because the jury found defendant not guilty of assault with a dangerous weapon and possession of a firearm during a crime of violence in the first trial, the government should not have been permitted to introduce evidence that defendant pulled out a weapon during his altercation with the victims when he was retried for possession of a firearm by a felon. Thomas v. United States, 79 A.3d 306, 2013 D.C. App. LEXIS 682 (2013).

Instructions.

— Self-defense, instructions.

In a criminal trial in which defendant was convicted for assault with a dangerous weapon under D.C. Code § 22-402, possession of a firearm during dangerous offenses under D.C. Code § 22-4504(b), and being a felon in possession of a firearm under 18 U.S.C.S. § 922(g)(1), defendant's argument that the district court improperly instructed the jury with respect to a claim of self-defense failed on appeal because there was no reasonable likelihood that the jury was confused or misled into diluting the government's burden of proof or shifting the burden of proof to defendant based on all the instructions; the district court specifically instructed the jury that the government had to disprove defendant's self-defense claim beyond a reasonable doubt, and it adequately emphasized that the burden of proof did not shift when defendant voluntarily undertook to present a specific defense. United States v. Purvis, 706 F.3d 520, 2013 U.S. App. LEXIS 2867 (D.C. Cir. 2013).

Merger of offenses.

Merger was proper because the predicate offenses—assault with a dangerous weapon, mayhem while armed, and aggravated assault while armed—merged into one, and because the possession of a firearm during a crime of violence convictions arose out of defendant's uninterrupted possession of a single weapon during a single act of violence. Nero v. United States, 73 A.3d 153, 2013 D.C. App. LEXIS 497 (2013).

Weight and sufficiency of evidence.

— Motor vehicle offenses, weight and sufficiency of evidence.

Sufficient evidence supported defendant's conviction for assault with a dangerous weapon under D.C. Code § 22-402 where: (1) defendant backed the van into a police officer; (2) the officer was driving a police vehicle, wearing an officer's uniform, and spoke with defendant as a police officer, through defendant's open car window; (3) defendant's backing into the officer, even slowly, created a grave risk of significant bodily injury, as the officer as standing, alone, at the side of a busy highway and could have been knocked very easily into oncoming traffic; and (4) the van was considered a dangerous weapon if it was used in a manner that actually caused a risk of serious injury. Fadero v. United States, 59 A.3d 1239, 2013 D.C. App. LEXIS 27 (2013).

Applied in Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012); Spriggs v. United States, 52 A.3d 878, 2012 D.C. App. LEXIS 478 (2012).

§ 22-403. Assault with intent to commit any other offense.

Whoever assaults another with intent to commit any other offense which may be punished by imprisonment in the penitentiary shall be imprisoned not more than 5 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 805; June 11, 2013, D.C. Law 19-317, § 303(f), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21, § 22-3007, § 22-3011, § 22-3012, § 22-4001, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(f) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-404. Assault or threatened assault in a menacing manner; stalking.

(a)(1) Whoever unlawfully assaults, or threatens another in a menacing manner, shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 180 days, or both.

(2) Whoever unlawfully assaults, or threatens another in a menacing manner, and intentionally, knowingly, or recklessly causes significant bodily injury to another shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 3 years, or both. For the purposes of this paragraph, the term "significant bodily injury" means an injury that requires hospitalization or immediate medical attention.

(b) Repealed.

(c) Repealed.

(d) Repealed.

(e) Repealed.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 806; May 8, 1993, D.C. Law 9-269,§ 2, 39 DCR 9014; Nov. 17, 1993, D.C. Law 10-53, § 2, 40 DCR 5446; Aug. 20, 1994, D.C. Law 10-151, § 105(d), 41 DCR 2608; May 16, 1995, D.C. Law 10-255, § 16, 41 DCR 5193; June 3, 1997, D.C. Law 11-275, § 3, 44 DCR 1408; Apr. 24, 2007, D.C. Law 16-306, § 207, 53 DCR 8610; Dec. 10, 2009, D.C. Law 18-88, § 302, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 201(c), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21, § 7-2502.03, § 16-2333, § 22-951, and § 23-581.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set

forth in § 22-3571.01" for "not more than $1,000" in (a)(1) and for "not more than $3,000" in (a)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Admissibility of evidence.

Trial court erred by admitting evidence of defendant's conviction in Virginia for sexual assault because defendant's conduct in the Virginia incident was not directed towards any of the victims in the District of Columbia incidents; while defendant made his state of mind an issue, the circumstances surrounding the aggravated sexual assault incident in Virginia and the charged crime did not entail a case of peculiar coincidence, in which mere recurrence threw light on mental states. Thomas v. United States, 59 A.3d 1252, 2013 D.C. App. LEXIS 26 (2013).

Conspiracy.

In a case involving robbery, aggravated assault, assault with significant bodily injury, and assault with intent to rob, there was sufficient evidence from which the jury could have inferred an agreement to commit a robbery where a young boy inquired about what was in the victims' pockets, several participants were apparently loitering with a purpose in front of a hotel prior to the attack, and both appellant and another participant called for assistance from a gunman. Collins v. United States, 73 A.3d 974, 2013 D.C. App. LEXIS 499 (2013).

Defenses.

Trial court did not err in holding that defendant was not entitled to a jury instruction on the defense of consent because engaging in a physical altercation in a public space, which resulted in significant bodily injury to the victim, was a breach to public peace and order and, therefore, was conduct to which defendant could not use consent as a defense to criminal prosecution; consent is not a defense to a charge of assault with significant bodily injury arising out of a street fight. Woods v. United States, 65 A.3d 667, 2013 D.C. App. LEXIS 258 (2013).

Evidence was insufficient to support a conviction for simple assault under this section because a trial court erroneously determined that appellant employed excessive force against a victim by striking her once after she hit him in the face with a cup. Moreover, in evaluating whether appellant reasonably believed that harm was imminent, the trial court applied an incorrect legal standard and failed to make essential factual findings. Ewell v. United States, 72 A.3d 127, 2013 D.C. App. LEXIS 421 (2013).

Merger of offenses.

Conviction for assault with significant bodily injury (ASBI) merged with a conviction for aggravated assault because ASBI was a lesser-included offense of aggravated assault. However, resentencing was not required because the sentences for the counts were concurrent and congruent. Collins v. United States, 73 A.3d 974, 2013 D.C. App. LEXIS 499 (2013).

Nature and elements of offenses.

— Intent and malice, nature and elements of offenses.

Sufficient evidence supported defendant's simple assault conviction where defendant led police on a high-risk chase down a busy downtown street, the result of which was a violent collision with victim four's vehicle, causing her to suffer physical injuries; intent was inferred from the intent to commit the act constituting the assault, or the intent to cause bodily harm from defendant's extremely reckless conduct. Vines v. United States, 70 A.3d 1170, 2013 D.C. App. LEXIS 395 (2013).

Given that reckless conduct is sufficient to establish the requisite intent to convict a defendant of assault with a deadly weapon, it necessarily follows that it is enough to establish the intent to convict a defendant of simple assault.

Vines v. United States, 70 A.3d 1170, 2013 D.C. App. LEXIS 395 (2013).

— Significant bodily injury, nature and elements of offenses.

Offense of assault with significant bodily injury was not a crime of violence, and thus, defendant should not have been charged with assault with significant bodily injury while armed or with a related count of possessing a firearm during a crime of violence (PFCV), which increased his potential term of imprisonment. Colter v. United States, 37 A.3d 282, 2012 D.C. App. LEXIS 63 (2012), writ of certiorari denied by 133 S. Ct. 554, 184 L. Ed. 2d 360, 2012 U.S. LEXIS 8443, 81 U.S.L.W. 3229 (U.S. 2012).

Under the felony assault statute, D.C. Code § 22-404(a)(2), injuries that require hospitalization or immediate medical attention — meaning "significant bodily injuries" — excludes those which, although seemingly significant enough to invite medical assistance, do not actually "require" it, meaning the victim would not suffer additional harm by failing to receive professional diagnosis and treatment. Quintanilla v. United States, 62 A.3d 1261, 2013 D.C. App. LEXIS 80 (2013).

To determine the kind of injury that requires "hospitalization or immediate medical attention" — the defining words under § 22-404 (a)(2) for a bodily injury that is "significant" — everyday remedies such as ice packs, bandages, and self-administered over-the-counter medications, are not sufficiently "medical" to qualify, whether administered by a medical professional or with self-help; treatment of a higher order, requiring true "medical" expertise, is required. Quintanilla v. United States, 62 A.3d 1261, 2013 D.C. App. LEXIS 80 (2013).

Right to trial by jury.

The trial court's failure to sua sponte empanel a jury for defendant's simple assault trial, since a conviction would subject defendant to deportation under federal immigration law, did not constitute plain error; simple assault was not a jury-demandable offense, and the collateral consequence of deportation did not transform the petty offense of simple assault to a serious offense. Fretes-Zarate v. United States, 40 A.3d 374, 2012 D.C. App. LEXIS 136 (2012).

Significant bodily injury.

Evidence was insufficient as a matter of law to support defendant's conviction for felony assault under D.C. Code § 22-404(a)(2), because the victim suffered no long-term consequences or "significant" bodily injury; she reported some swelling and bruising but never received medical attention or took any medication for her injuries other than aspirin. Quintanilla v. United States, 62 A.3d 1261, 2013 D.C. App. LEXIS 80 (2013).

Significant bodily injury under the assault of a police officer while armed statute, D.C. Code §§ 22-405(c) and 22-4502 is defined as an injury that requires hospitalization or immediate medical attention since the assault of a police officer and the felony assault amendments, enacted at the same time, both use the same language to characterize the crime (significant bodily injury), and the latter, D.C. Code § 22-404(a)(2), defines that phrase; the felony assault definition applies under both statutes. Fadero v. United States, 59 A.3d 1239, 2013 D.C. App. LEXIS 27 (2013).

Weight and sufficiency of evidence.

— In general.

Although remand for a retrial was necessary for the trial court to consider whether defendant's right to confrontation was violated, the evidence was sufficient to support defendant's conviction for assault, in violation of D.C. Code § 22-404, because (1) a police officer testified that defendant's step-sibling, while in an excited state, told the officer that defendant came to the step-sibling, while holding a knife, and told the step-sibling that the step-sibling looked like the step-sibling had been selling drugs and needed a haircut, and that defendant then tried to cut the step-sibling's hair; (2) the officer testified as to the officer's observations that both defendant and the step-sibling had visible injuries and bloodstained clothes and that there was a trail of blood inside the duplex unit which defendant and the step-sibling shared; and (3) there was photographic evidence. Best v. United States, 66 A.3d 1013, 2013 D.C. App. LEXIS 276 (2013).

— Intent, weight and sufficiency of evidence.

Evidence was sufficient to convict defendant of simple assault, as it established that while fleeing police, he crashed his car into the victim's vehicle, causing her injuries, and a reasonable juror could have inferred defendant's intent to cause bodily harm from his extremely reckless conduct. Vines v. United States, — A.3d —, 2013 D.C. App. LEXIS 616 (July 11, 2013).

Applied in Spriggs v. United States, 52 A.3d 878, 2012 D.C. App. LEXIS 478 (2012); Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

§ 22-404.01. Aggravated assault.

(a) A person commits the offense of aggravated assault if:

(1) By any means, that person knowingly or purposely causes serious bodily injury to another person; or

(2) Under circumstances manifesting extreme indifference to human life, that person intentionally or knowingly engages in conduct which creates a grave risk of serious bodily injury to another person, and thereby causes serious bodily injury.

(b) Any person convicted of aggravated assault shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned for not more than 10 years, or both.

(c) Any person convicted of attempted aggravated assault shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned for not more than 5 years, or both.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 806a, as added Aug. 20, 1994, D.C. Law 10-151, § 202, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(d), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21 and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (b) and for "not more than $5,000" in (c).

Emergency legislation.

For temporary addition of the Act of Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 806b, concerning assault on a public vehicle inspection officer, see § 401 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary addition of the Act of Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 806c, concerning aggravated assault on a public vehicle inspector officer, see § 401 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 201(d) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Conspiracy.
Merger of offenses.
Weight and sufficiency of evidence.

Conspiracy.

In a case involving robbery, aggravated assault, assault with significant bodily injury, and assault with intent to rob, there was sufficient evidence from which the jury could have inferred an agreement to commit a robbery where a young boy inquired about what was in the victims' pockets, several participants were apparently loitering with a purpose in front of a hotel prior to the attack, and both appellant and another participant called for assistance from a gunman. Collins v. United States, 73 A.3d 974, 2013 D.C. App. LEXIS 499 (2013).

Merger of offenses.

Defendant's two convictions for possession of a firearm during a crime of violence, under D.C. Code § 22-4504(b), did not merge with the underlying convictions for armed robbery, under D.C. Code §§ 22-2801 and 22-4502, and aggravated assault while armed, under D.C. Code §§ 22-404.01 and 22-4502 because the offenses required different elements of proof. The armed robbery and aggravated assault while armed offenses required proof that defendant was "armed with" or had "readily available" a dangerous weapon, which could, but need not, have been a firearm, while the possession of a firearm during a crime of violence offenses required proof of elements not required by the armed enhancement statute — that is, proof of "possession" of a "firearm." Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012).

Conviction for assault with significant bodily injury (ASBI) merged with a conviction for aggravated assault because ASBI was a lesser-

included offense of aggravated assault. However, resentencing was not required because the sentences for the counts were concurrent and congruent. Collins v. United States, 73 A.3d 974, 2013 D.C. App. LEXIS 499 (2013).

Merger was proper because the predicate offenses—assault with a dangerous weapon, mayhem while armed, and aggravated assault while armed—merged into one, and because the possession of a firearm during a crime of violence convictions arose out of defendant's uninterrupted possession of a single weapon during a single act of violence. Nero v. United States, 73 A.3d 153, 2013 D.C. App. LEXIS 497 (2013).

Weight and sufficiency of evidence.

Evidence was sufficient to support defendant's convictions, on a conspiracy theory, for aggravated assault while armed, under D.C. Code §§ 22-404.01 and 22-4502, and assault with intent to rob while armed, under D.C. Code §§ 22-401 and 22-4502, because (1) one of the victims testified that the victim saw defendant put on a black ski mask and lead other perpetrators to the four victims; (2) defendant pointed a gun at the victims and demanded money; (3) a second gunman, who walked behind the victims, aimed the gun at the group, moving the gun between different people; (4) after defendant took money from one of the victims, that victim and defendant wrestled over defendant's gun; (5) defendant fled with defendant's gun; and (6) the second gunman kept the gun trained on that victim and shot that victim about 15 seconds after defendant fled. Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012).

§ 22-404.02. Assault on a public vehicle inspection officer.

(a) A person commits the offense of assault on a public vehicle inspection officer if that person assaults, impedes, intimidates, or interferes with a public vehicle inspection officer while that officer is engaged in or on account of the performance of his or her official duties.

(b) A person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall:

(1) Be fined not more than the amount set forth in § 22-3571.01, or be imprisoned for not more than 180 days; and

(2) Have his or her license or licenses for operating a public vehicle-for-hire, as required by the Commission pursuant to subchapter I of Chapter 3 of Title 50 [§ 50-301 et seq.], revoked without further administrative action by the Commission.

(c) It is neither justifiable nor excusable for a person to use force to resist the civil enforcement authority exercised by an individual believed to be a public vehicle inspection officer, whether or not such enforcement action is lawful.

(d) For the purposes of this section, the term:

(1) "Commission" shall have the same meaning as provided in § 50-303(6).

(2) "Public vehicle-for-hire" shall have the same meaning as provided in § 50-303(17).

(3) "Public vehicle inspection officer" shall have the same meaning as provided in § 50-303(19).

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 806b, as added June 19, 2013, D.C. Law 19-320, § 401, 60 DCR 3390.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 401 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council

and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

§ 22-404.03. Aggravated assault on a public vehicle inspection officer.

(a) A person commits the offense of aggravated assault on a public vehicle inspection officer if that person assaults, impedes, intimidates, or interferes with a public vehicle inspection officer while that officer is engaged in or on account of the performance of his or her official duties, and:

(1) By any means, that person knowingly or purposely causes serious bodily injury to the public vehicle inspection officer; or

(2) Under circumstances manifesting extreme indifference to human life, that person intentionally or knowingly engages in conduct which creates a grave risk of serious bodily injury to another person, and thereby causes serious bodily injury.

(b) A person who violates this section shall be guilty of a felony and, upon conviction, shall:

(1) Be fined not more than the amount set forth in § 22-3571.01, or be imprisoned for not more than 10 years, or both; and

(2) Have his or her license or licenses for operating a public vehicle-for-hire, as required by the Commission pursuant [to] subchapter I of Chapter 3 of Title 50 [§ 50-301 et seq.], revoked without further administrative action by the Commission.

(c) It is neither justifiable nor excusable for a person to use force to resist the civil enforcement authority exercised by an individual believed to be a public vehicle inspection officer, whether or not such enforcement action is lawful.

(d) For the purposes of this section, the term:

(1) "Commission" shall have the same meaning as provided in § 50-303(6).

(2) "Public vehicle-for-hire" shall have the same meaning as provided in § 50-303(17).

(3) "Public vehicle inspection officer" shall have the same meaning as provided in § 50-303(19).

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 806c, as added June 19, 2013, D.C. Law 19-320, § 401, 60 DCR 3390.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-320 added this section.

Emergency legislation. — For temporary (90 days) addition of this section, see § 401 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

Legislative history of Law 19-320. — See note to § 22-404.02.

§ 22-405. Assault on member of police force, campus or university special police, or fire department.

(a) For the purposes of this section, the term "law enforcement officer"

means any officer or member of any police force operating and authorized to act in the District of Columbia, including any reserve officer or designated civilian employee of the Metropolitan Police Department, any licensed special police officer, any officer or member of any fire department operating in the District of Columbia, any officer or employee of any penal or correctional institution of the District of Columbia, any officer or employee of the government of the District of Columbia charged with the supervision of juveniles being confined pursuant to law in any facility of the District of Columbia regardless of whether such institution or facility is located within the District, any investigator or code inspector employed by the government of the District of Columbia, or any officer or employee of the Department of Youth Rehabilitation Services, Court Services and Offender Supervision Agency, the Social Services Division of the Superior Court, or Pretrial Services Agency charged with intake, assessment, or community supervision.

(b) Whoever without justifiable and excusable cause, assaults, resists, opposes, impedes, intimidates, or interferes with a law enforcement officer on account of, or while that law enforcement officer is engaged in the performance of his or her official duties shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned not more than 180 days or fined not more than the amount set forth in § 22-3571.01, or both.

(c) A person who violates subsection (b) of this section and causes significant bodily injury to the law enforcement officer, or commits a violent act that creates a grave risk of causing significant bodily injury to the officer, shall be guilty of a felony and, upon conviction, shall be imprisoned not more than 10 years or fined not more than the amount set forth in § 22-3571.01, or both.

(d) It is neither justifiable nor excusable cause for a person to use force to resist an arrest when such an arrest is made by an individual he or she has reason to believe is a law enforcement officer, whether or not such arrest is lawful.

(R.S., D.C., § 432; June 29, 1953, 67 Stat. 95, ch. 159, § 205; Oct. 20, 1965, 79 Stat. 1011, Pub. L. 89-277, § 1; July 29, 1970, 84 Stat. 601, Pub. L. 91-358, title II, § 206; Aug. 11, 1971, 85 Stat. 316, Pub. L. 92-92; May 21, 1994, D.C. Law 10-119, § 3, 41 DCR 1639; Oct. 18, 1995, D.C. Law 11-63, § 3, 42 DCR 4109; June 3, 1997, D.C. Law 11-275, § 4, 44 DCR 1408; June 12, 1999, D.C. Law 12-284, § 2, 46 DCR 1328; June 18, 1999, D.C. Law 12-288, § 2, 45 DCR 4471; Apr. 24, 2007, D.C. Law 16-306, § 208, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 202(a), 60 DCR 2064.)

Section references. — This section is referenced in § 23-524, § 24-112, § 24-261.03, § 24-403, and § 24-403.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b) and for "not more than $10,000" in (c).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 202(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Active confrontation.
Civil actions.
Examination of witnesses.
Instructions.
Presumptions and burden of proof.
Significant bodily injury.
Weight and sufficiency of evidence.

Active confrontation.

There was no basis for remanding the record for findings that had already been made because defendant could not be convicted merely for refusing to get out of his car as police officers demanded, and the trial court explicitly referred to a factual dispute, created by conflicting testimony, regarding the parties' subsequent actions. Cave v. United States, 75 A.3d 145, 2013 D.C. App. LEXIS 508 (2013).

Civil actions.

Although, in a juvenile delinquency proceeding, the judge determined that there was grave risk of causing significant bodily injury to a deputy when, without justifiable or excusable cause, the respondent drove the car forward in a manner that put the deputy in danger of being hit, in violation of D.C. Code § 22-405(b) and (c), neither those findings nor the verdict prevented the respondent, as plaintiff in a civil suit, from pursuing claims against the officers for unconstitutional use of deadly force. Fenwick v. United States, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 28720 (D.D.C. Mar. 1, 2013).

Examination of witnesses.

Trial court's refusal to allow defendant to cross-examine police officer, who was shot while trying to arrest defendant, about police regulations that required reports to be filed "immediately" when officers drew and pointed their firearms and to be sequestered during the resulting investigation, did not violate the Confrontation Clause, in prosecution for resisting a police officer and other offenses, as such cross-examination would have resulted in a distracting "mini-trial" on collateral issues; report regulation did not establish time limit for filing reports or provide for any sanctions if report was submitted late, officer had been shot such that some delay in submission of his report was to be expected, and responsibility to sequester officers during a use-of-force investigation was placed on investigating officer. Coles v. United States, 36 A.3d 352, 2012 D.C. App. LEXIS 19 (2012).

Instructions.

Trial court's jury instruction defining significant bodily injury under the assault of a police officer while armed statute, D.C. Code §§ 22-405(c) and 22-4502, as an injury that required hospitalization or immediate medical attention was proper as the assault of a police officer and the felony assault amendments, enacted at the same time, both used the same language to characterize the crime (significant bodily injury), and the latter, D.C. Code § 22-404(a)(2), defined that phrase; the felony assault definition applied under both statutes. Fadero v. United States, 59 A.3d 1239, 2013 D.C. App. LEXIS 27 (2013).

Presumptions and burden of proof.

Defendant was entitled to benefit of pretrial rebuttable presumption of vindictiveness when government added charge of assault on a police officer (APO) to preexisting charge of possession of marijuana, which shifted burden to government to explain its decision to add APO charge; government knew from date of defendant's arrest that there were facts potentially supporting charge of assault and resisting arrest, government added APO charge after defendant sought to enforce his subpoena and trial was continued, and government, by announcing that it was ready to go to trial, communicated that fluid pretrial litigation period was over. Simms v. United States, 41 A.3d 482, 2012 D.C. App. LEXIS 144 (2012).

Plaintiff's juvenile adjudication for felony assault on an officer established, as a matter of collateral estoppel, that during the encounter plaintiff created a grave risk of causing significant bodily injury to a deputy by driving the vehicle forward in a way that could have harmed the deputy, in violation of D.C. Code § 22-405(c). But that adjudication did not establish whether the deputies reasonably could have believed that plaintiff still posed a danger to the deputies by the time they shot him. Fenwick v. United States, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 28720 (D.D.C. Mar. 1, 2013).

Significant bodily injury.

Significant bodily injury under the assault of a police officer while armed statute, D.C. Code §§ 22-405(c) and 22-4502, is defined as an injury that requires hospitalization or immediate medical attention since the assault of a police officer and the felony assault amendments, enacted at the same time, both use the same language to characterize the crime (significant bodily injury), and the latter, D.C. Code § 22-404(a)(2), defines that phrase; the felony assault definition applies under both statutes. Fadero v. United States, 59 A.3d 1239, 2013 D.C. App. LEXIS 27 (2013).

Weight and sufficiency of evidence.

Sufficient evidence supported defendant's conviction for assault of a police officer while

armed under D.C. Code §§ 22-405 and 22-4502 where: (1) defendant backed the van into a police officer; (2) the officer was driving a police vehicle, wearing an officer's uniform, and spoke with defendant as a police officer, through defendant's open car window; (3) defendant's backing into the officer, even slowly, created a grave risk of significant bodily injury, as the officer as standing, alone, at the side of a busy highway and could have been knocked very easily into oncoming traffic; and (4) the van was considered a dangerous weapon if it was used in a manner that actually caused a risk of serious injury. Fadero v. United States, 59 A.3d 1239, 2013 D.C. App. LEXIS 27 (2013).

Defendant's elbow jerk in response to a police officer reaching towards his shoulder did not amount to "resisting" a police officer. Ruffin v. United States, 76 A.3d 845, 2013 D.C. App. LEXIS 594 (2013).

§ 22-406. Mayhem or maliciously disfiguring.

Every person convicted of mayhem or of maliciously disfiguring another shall be imprisoned for not more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 807; June 11, 2013, D.C. Law 19-317, § 303(g), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21, § 22-3152, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(g) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Merger of offenses.

Merger was proper because the predicate offenses—assault with a dangerous weapon, mayhem while armed, and aggravated assault while armed—merged into one, and because the possession of a firearm during a crime of violence convictions arose out of defendant's uninterrupted possession of a single weapon during a single act of violence. Nero v. United States, 73 A.3d 153, 2013 D.C. App. LEXIS 497 (2013).

§ 22-407. Threats to do bodily harm.

Whoever is convicted in the District of threats to do bodily harm shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 6 months, or both, and, in addition thereto, or in lieu thereof, may be required to give bond to keep the peace for a period not exceeding 1 year.

(July 16, 1912, 37 Stat. 193, ch. 235, § 2; June 29, 1953, 67 Stat. 98, ch. 159, § 212; Dec. 23, 1963, 77 Stat. 618, Pub. L. 88-241, § 11(b); June 11, 2013, D.C. Law 19-317, § 203(b), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21, § 7-2502.03, § 16-4205, and § 22-951.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 203(b) of the Criminal Fine Proportionality

Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-401.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Nature and elements of offense.
Weight and sufficiency of evidence.

Nature and elements of offense.

Trial court erred by constructively amending the charging instrument to find a juvenile guilty of threatening a friend's unidentified boyfriend because, while the juvenile admitted to making a threatening statement, the charging instrument listed the crime as threatening a police officer, not the boyfriend. In re L.B., 73 A.3d 1015, 2013 D.C. App. LEXIS 503 (2013).

Weight and sufficiency of evidence.

Sufficient evidence supported defendant's attempted threats to do bodily harm conviction where defendant repeatedly spoke the words "I could kill you" while he was choking the victim with both hands around her neck; the State did not have to show that defendant intended to utter the words as a threat. Carrell v. United States, 80 A.3d 163, 2013 D.C. App. LEXIS 785 (2013).

Applied in Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012); Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

CHAPTER 5. BIGAMY.

Sec.
22-501. Bigamy.

§ 22-501. Bigamy.

(a) Whoever, having a spouse or domestic partner living, marries or enters a domestic partnership with another shall be deemed guilty of bigamy, and on conviction thereof shall suffer imprisonment for not less than 2 nor more than 7 years; provided, that this section shall not apply to any person whose:

(1) Spouse or domestic partner has been continually absent for 5 successive years next before such marriage or domestic partnership without being known to such person to be living within that time;

(2) Marriage to said living spouse shall have been dissolved by a valid decree of a competent court, or shall have been pronounced void by a valid decree of a competent court on the ground of the nullity of the marriage contract; or

(3) Domestic partnership with said living domestic partner has been terminated in accordance with § 32-702(d).

(a-1) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(b) For the purposes of this section, the term:

(1) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

(2) "Domestic partnership" shall have the same meaning as provided in § 32-701(4).

(Mar. 3, 1901, 31 Stat. 1331, ch. 854, § 870; Sept. 12, 2008, D.C. Law 17-231,

§ 23(a), 55 DCR 6758; June 11, 2013, D.C. Law 19-317, § 303(q), 60 DCR 2064.)

Effect of amendments.
The 2013 amendment by D.C. Law 19-317 added (a-1).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(q) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 6. BREAKING INTO DEVICES DESIGNED TO RECEIVE CURRENCY.

§ 22-601. Breaking and entering vending machines and similar devices.

Whoever in the District of Columbia breaks open, opens, or enters, without right, any parking meter, coin telephone, vending machine dispensing goods or services, money changer, or any other device designed to receive currency, with intent to carry away any part of such device or anything contained therein, shall be sentenced to a term of imprisonment of not more than 3 years or to a fine of not more than the amount set forth in § 22-3571.01, or both.

(July 29, 1970, 84 Stat. 600, Pub. L. 91-358, title II, § 203; June 11, 2013, D.C. Law 19-317, § 204, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $3,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 204 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 7. BRIBERY; OBSTRUCTING JUSTICE; CORRUPT INFLUENCE.

Subchapter I. Corrupt Influence

Subchapter II. Bribery

Subchapter I. Corrupt Influence.

§ 22-704. Corrupt influence; officials.

(a) Whosoever corruptly, directly or indirectly, gives any money, or other bribe, present, reward, promise, contract, obligation, or security for the payment of any money, present, reward, or thing of value to any ministerial, administrative, executive, or judicial officer of the District of Columbia, or any employee, or other person acting in any capacity for the District of Columbia, or any agency thereof, either before or after the officer, employee, or other person acting in any capacity for the District of Columbia is qualified, with intent to influence such official's action on any matter which is then pending, or may by law come or be brought before such official in such official's official capacity, or to cause such official to execute any of the powers in such official vested, or to perform any duties of such official required, with partiality or favor, or otherwise than is required by law, or in consideration that such official being authorized in the line of such official's duty to contract for any advertising or for the furnishing of any labor or material, shall directly or indirectly arrange to receive or shall receive, or shall withhold from the parties so contracted with, any portion of the contract price, whether that price be fixed by law or by agreement, or in consideration that such official has nominated or appointed any person to any office or exercised any power in such official vested, or performed any duty of such official required, with partiality or favor, or otherwise contrary to law; and whosoever, being such an official, shall receive any such money, bribe, present, or reward, promise, contract, obligation, or security, with intent or for the purpose or consideration aforesaid shall be deemed guilty of bribery and upon conviction thereof shall be punished by imprisonment for a term not less than 6 months nor more than 5 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(b) Whosoever corrupts or attempts, directly or indirectly, to corrupt any special master, auditor, juror, arbitrator, umpire, or referee, by giving, offering, or promising any gift or gratuity whatever, with intent to bias the opinion, or influence the decision of such official, in relation to any matter pending in the court, or before an inquest, or for the decision of which such arbitrator, umpire, or referee has been chosen or appointed, and every official who receives, or offers or agrees to receive, a bribe in any of the cases above mentioned shall be guilty of bribery and upon conviction thereof shall be punished as hereinbefore provided.

(Feb. 26, 1936, 49 Stat. 1143, ch. 87; May 21, 1994, D.C. Law 10-119, § 5, 41 DCR 1639; June 11, 2013, D.C. Law 19-317, § 308, 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence in (a).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 308 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter II. Bribery.

§ 22-712. Prohibited acts; penalty.

(a) A person commits the offense of bribery if that person:

(1) Corruptly offers, gives, or agrees to give anything of value, directly or indirectly, to a public servant; or

(2) Corruptly solicits, demands, accepts, or agrees to accept anything of value, directly or indirectly, as a public servant;

in return for an agreement or understanding that an official act of the public servant will be influenced thereby or that the public servant will violate an official duty, or that the public servant will commit, aid in committing, or will collude in or allow any fraud against the District of Columbia.

(b) Nothing in this section shall be construed as prohibiting concurrence in official action in the course of legitimate compromise between public servants.

(c) Any person convicted of bribery shall be fined not more than the amount set forth in § 22-3571.01 or twice the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than 10 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 302, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, §§ 111(a)(3), 205(v), 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317, in (c), substituted "not more than the amount set forth in § 22-3571.01" for "not more than $25,000," and "twice" for "3 times".

Emergency legislation. — For temporary (90 days) amendment of this section, see §§ 111(a)(3) and 205(v) of the Criminal Fine Proportionality Emergency Amendment Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-704.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-713. Bribery of witness; penalty.

(a) A person commits the offense of bribery of a witness if that person:

(1) Corruptly offers, gives, or agrees to give to another person; or

(2) Corruptly solicits, demands, accepts, or agrees to accept from another person;

anything of value in return for an agreement or understanding that the testimony of the recipient will be influenced in an official proceeding before any

court of the District of Columbia or any agency or department of the District of Columbia government, or that the recipient will absent himself or herself from such proceedings.

(b) Nothing in subsection (a) of this section shall be construed to prohibit the payment or receipt of witness fees provided by law, or the payment by the party upon whose behalf a witness is called and receipt by a witness of a reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such proceeding, or, in case of expert witnesses, a reasonable fee for time spent in the preparation of a technical or professional opinion and appearing and testifying.

(c) Any person convicted of bribery of a witness shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 303, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(w), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $2,500" in (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(w) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-704.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter III. Obstructing Justice.

§ 22-721. Definitions.

CASE NOTES

Analysis

Due administration of justice.
Official proceeding.

Due administration of justice.

Phrase "due administration of justice," as used in statute defining obstruction of justice, in part, as corruptly, or by threats of force, obstructing or impeding or endeavoring to instruct or impede the due administration of justice in any official proceeding, does not include an initial police response to the scene of a crime. Wynn v. United States, 48 A.3d 181, 2012 D.C. App. LEXIS 321 (2012).

Phrase "due administration of justice," as used in statute defining obstruction of justice, in part, as corruptly, or by threats of force, obstructing or impeding or endeavoring to instruct or impede the due administration of justice in any official proceeding, is used primarily, if not exclusively, to describe the proper functioning and integrity of a court or hearing. Wynn v. United States, 48 A.3d 181, 2012 D.C. App. LEXIS 321 (2012).

Official proceeding.

An "official proceeding," as that term is used in statute defining obstruction of justice, in part, as corruptly, or by threats of force, obstructing or impeding or endeavoring to instruct or impede the due administration of justice in any official proceeding, does not include the actions of police officers first responding to a crime. Wynn v. United States, 48 A.3d 181, 2012 D.C. App. LEXIS 321 (2012).

§ 22-722. Prohibited acts; penalty.

(a) A person commits the offense of obstruction of justice if that person:

(1) Knowingly uses intimidation or physical force, threatens or corruptly

persuades another person, or by threatening letter or communication, endeavors to influence, intimidate, or impede a juror in the discharge of the juror's official duties;

(2) Knowingly uses intimidating or physical force, threatens or corruptly persuades another person, or by threatening letter or communication, endeavors to influence, intimidate, or impede a witness or officer in any official proceeding, with intent to:

(A) Influence, delay, or prevent the truthful testimony of the person in an official proceeding;

(B) Cause or induce the person to withhold truthful testimony or a record, document, or other object from an official proceeding;

(C) Evade a legal process that summons the person to appear as a witness or produce a document in an official proceeding; or

(D) Cause or induce the person to be absent from a legal official proceeding to which the person has been summoned by legal process;

(3) Harasses another person with the intent to hinder, delay, prevent, or dissuade the person from:

(A) Attending or testifying truthfully in an official proceeding;

(B) Reporting to a law enforcement officer the commission of, or any information concerning, a criminal offense;

(C) Arresting or seeking the arrest of another person in connection with the commission of a criminal offense; or

(D) Causing a criminal prosecution or a parole or probation revocation proceeding to be sought or instituted, or assisting in a prosecution or other official proceeding;

(4) Injures or threatens to injure any person or his or her property on account of the person or any other person giving to a criminal investigator in the course of any criminal investigation information related to a violation of any criminal statute in effect in the District of Columbia;

(5) Injures or threatens to injure any person or his or her property on account of the person or any other person performing his official duty as a juror, witness, or officer in any court in the District of Columbia; or

(6) Corruptly, or by threats of force, any way obstructs or impedes or endeavors to obstruct or impede the due administration of justice in any official proceeding.

(b) Any person convicted of obstruction of justice shall be sentenced to a maximum period of incarceration of not less than 3 years and not more than 30 years, or shall be fined not more than the amount set forth in § 22-3571.01, or both. For purposes of imprisonment following revocation of release authorized by § 24-403.01, obstruction of justice is a Class A felony.

(Dec. 1, 1982, D.C. Law 4-164, § 502, 29 DCR 3976; May 7, 1993, D.C. Law 9-268, § 2(c), 39 DCR 5702; May 23, 1995, D.C. Law 10-256, § 3, 42 DCR 20; June 8, 2001, D.C. Law 13-302, § 5, 47 DCR 7249; Dec. 10, 2009, D.C. Law 18-88, § 214(m), 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 205(bb), 60 DCR 2064.)

Section references. — This section is referenced in § 23-546, § 23-1322, and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(bb) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-704.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Harassment.
Weight and sufficiency of evidence.

Harassment.

Defendant's obstruction of justice conviction held improper where the government could not show harassment where defendant asked a girlfriend, through her daughter to make false statements to the police and perhaps give false testimony; defendant only asked once in a non-threatening way in an apparent hope that the girlfriend might be sympathetic to his dilemma, and the girlfriend's reaction was one of confusion, not fear, distress or even irritation. Wynn v. United States, 80 A.3d 211, 2013 D.C. App. LEXIS 783 (2013).

Weight and sufficiency of evidence.

Defendant's convictions of obstruction of justice and conspiracy to obstruct justice were reversed, as no rational juror could have found beyond a reasonable doubt that defendant, acting through and conspiring with his father and his uncle, had the specific intent to threaten his friend to prevent him from giving truthful testimony at defendant's murder trial. Harrison v. United States, 60 A.3d 1155, 2012 D.C. App. LEXIS 636 (2012).

First defendant's conviction for obstruction of justice under D.C. Code § 22-722(a)(2)(A), was supported by evidence that a witness who identified first defendant during the grand jury hearing recanted his identification at trial, after first defendant placed a recorded call to his father stating he needed to contact a private investigator to assist. Smith v. United States, 68 A.3d 729, 2013 D.C. App. LEXIS 282 (2013), writ of certiorari denied by 134 S. Ct. 451, 187 L. Ed. 2d 302, 2013 U.S. LEXIS 7347, 82 U.S.L.W. 3215 (U.S. 2013), writ of certiorari denied by 134 S. Ct. 708, 187 L. Ed. 2d 570, 2013 U.S. LEXIS 8624, 82 U.S.L.W. 3329 (U.S. 2013).

Evidence was sufficient to find defendant guilty of attempting to obstruct justice because defendant wrote letters to an acquaintance (after defendant's arrest for possession with intent to distribute cocaine) asking the acquaintance to claim responsibility for the drugs and threatening to fight him for failure to do so. Silver v. United States, 73 A.3d 1022, 2013 D.C. App. LEXIS 500 (2013).

Applied in Spriggs v. United States, 52 A.3d 878, 2012 D.C. App. LEXIS 478 (2012); Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

§ 22-723. Tampering with physical evidence; penalty.

(a) A person commits the offense of tampering with physical evidence if, knowing or having reason to believe an official proceeding has begun or knowing that an official proceeding is likely to be instituted, that person alters, destroys, mutilates, conceals, or removes a record, document, or other object, with intent to impair its integrity or its availability for use in the official proceeding.

(b) Any person convicted of tampering with physical evidence shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 3 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 503, 29 DCR 3976; July 15, 2004, D.C. Law 15-174, § 301, 51 DCR 3677; June 11, 2013, D.C. Law 19-317, § 205(cc), 60 DCR 2064.)

Effect of amendments.
The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(cc) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-704.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Applied in Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

CHAPTER 8. BURGLARY.

Sec.
22-801. Definition and penalty.

§ 22-801. Definition and penalty.

(a) Whoever shall, either in the nighttime or in the daytime, break and enter, or enter without breaking, any dwelling, or room used as a sleeping apartment in any building, with intent to break and carry away any part thereof, or any fixture or other thing attached to or connected thereto or to commit any criminal offense, shall, if any person is in any part of such dwelling or sleeping apartment at the time of such breaking and entering, or entering without breaking, be guilty of burglary in the first degree. Burglary in the first degree shall be punished by imprisonment for not less than 5 years nor more than 30 years.

(b) Except as provided in subsection (a) of this section, whoever shall, either in the night or in the daytime, break and enter, or enter without breaking, any dwelling, bank, store, warehouse, shop, stable, or other building or any apartment or room, whether at the time occupied or not, or any steamboat, canalboat, vessel, or other watercraft, or railroad car, or any yard where any lumber, coal, or other goods or chattels are deposited and kept for the purpose of trade, with intent to break and carry away any part thereof or any fixture or other thing attached to or connected with the same, or to commit any criminal offense, shall be guilty of burglary in the second degree. Burglary in the second degree shall be punished by imprisonment for not less than 2 years nor more than 15 years.

(c) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1323, ch. 854, § 823; Dec. 27, 1967, 81 Stat. 736, Pub. L. 90-226, title VI, § 602; June 11, 2013, D.C. Law 19-317, § 303(l), 60 DCR 2064.)

Section references. — This section is referenced in § 11-502, § 22-4001, § 23-546, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added (c).

Emergency legislation. — For temporary

(90 days) amendment of this section, see § 303(l) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Admissibility of evidence.

— Probative value, admissibility of evidence.

Probative value of evidence of defendant's heroin addiction to place what happened at the crime scene in an understandable context was substantially outweighed by the prejudicial effect its admission would have for defendant, such that the evidence was inadmissible for this purpose, in prosecution for burglary, robbery, kidnapping, and felony murder; jury did not need the drug-addiction evidence to derive a coherent story of the evidence, in that even without the evidence of drug addiction, the evidence suggested that the crimes likely were the acts of a desperate person, and it did not appear that the drug-addiction evidence would be indispensable to the jury's understanding of the charged offenses. U.S. v. Morton, 2012 WL 3242844 (2012).

Remand was required for trial court to conduct anew its discretionary balancing of the probative value of the evidence of defendant's heroin addiction as corroborative of inferences that pointed to defendant as the perpetrator against its prejudicial effect, in prosecution for burglary, robbery, kidnapping, and felony murder; defendant's addiction had probative value as corroborative of defendant's identity as the perpetrator, while evidence of his addiction might be reflective of his character and might suggest that he had criminal propensities, the relevance of the evidence was logically independent of those possibilities, and a fuller assessment by trial court of probative value of the evidence could affect its balancing of probative value against prejudicial effect. U.S. v. Morton, 2012 WL 3242844 (2012).

Aiding and abetting.

Defendant's conviction for first-degree burglary, in violation of D.C. Code § 22-801(a), was appropriate because the government presented evidence that defendant aided and abetted two people in entering the apartment where defendant was staying to commit an assault on the person who was renting the apartment, as the crime intended to be committed in the apartment infringed upon the peaceful use and occupancy of a co-dweller of that apartment. Spriggs v. United States, 52 A.3d 878, 2012 D.C. App. LEXIS 478 (2012).

Indictment or information.

— Amendments, indictment or information.

Even though the trial court constructively amended the burglary indictment by adding an additional intent under which the jury could find defendant guilty, intent to commit an assault, defendant could not show that the error affected his substantial rights because the evidence presented at trial and the government's argument to the jury were consistent with the language of the indictment. Portillo v. United States, 62 A.3d 1243, 2013 D.C. App. LEXIS 73 (2013).

Weight and sufficiency of evidence.

— In general.

Defendant was convicted of first-degree burglary in violation of D.C. Code § 22-801(a), attempted robbery, and unlawfully possessing a firearm after a felony conviction, because he entered the victim's apartment and remained after being asked to leave, walked into her bedroom, and demanded money while holding a gun. Fortune v. United States, 59 A.3d 949, 2013 D.C. App. LEXIS 11 (2013).

CHAPTER 8A. CRIMES COMMITTED AGAINST MINORS.

Sec.
22-811. Contributing to the delinquency of a minor.

§ 22-811. Contributing to the delinquency of a minor.

(a) It is unlawful for an adult, being 4 or more years older than a minor, to invite, solicit, recruit, assist, support, cause, encourage, enable, induce, advise, incite, facilitate, permit, or allow the minor to:

(1) Be truant from school;

(2) Possess or consume alcohol or, without a valid prescription, a controlled substance as that term is defined in § 48-901.02(4);

(3) Run away for the purpose of criminal activity from the place of abode of his or her parent, guardian, or other custodian;

(4) Violate a court order;

(5) Violate any criminal law of the District of Columbia for which the penalty constitutes a misdemeanor, except for acts of civil disobedience;

(6) Join a criminal street gang as that term is defined in § 22-951(e)(1); or

(7) Violate any criminal law of the District of Columbia for which the penalty constitutes a felony, or any criminal law of the United States, or the criminal law of any other jurisdiction that involves conduct that would constitute a felony if committed in the District of Columbia, except for acts of civil disobedience.

(b)(1) Except as provided in paragraphs (2), (4) and (5) of this subsection, a person convicted of violating subsection (a)(1)-(6) of this section shall be fined not more than the amount set forth in § 22-3571.01, or imprisoned for not more than 6 months, or both.

(2) A person convicted of violating subsection (a)(2)-(6) of this section, having previously been convicted of an offense under subsection (a)(2)-(6) of this section or a substantially similar offense in this or any other jurisdiction, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 3 years, or both.

(3) Except as provided in paragraphs (4) and (5) of this subsection, a person convicted of violating subsection (a)(7) of this section shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(4) A person convicted of violating subsection (a) of this section that results in serious bodily injury to the minor or any other person shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(5) A person convicted of violating subsection (a) of this section that results in the death of the minor or any other person shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(c) The penalties under this section are in addition to any other penalties permitted by law.

(d) It is not a defense to a prosecution under this section that the minor does not engage in, is not charged with, is not adjudicated delinquent for, or is not convicted as an adult, for any conduct set forth in subsection (a)(1)-(7) of this section.

(e) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute a violation of subsection (a) of this section for which the penalty is set forth in subsection (c)(1) of this section.

(f) For the purposes of this section, the term:

(1) "Adult" means a person 18 years of age or older at the time of the offense.

(2) "Minor" means a person under 18 years of age at the time of the offense.

(Apr. 24, 2007, D.C. Law 16-306, § 103, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 206(b), 60 DCR 2064.)

Section references. — This section is referenced in § 7-403.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317, in (b), substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b)(1), for "not more than $3,000" in (b)(2), for "not more than $5,000" in (b)(3) and (b)(4), and for "not more than $10,000" in (b)(5).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 206(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Collateral estoppel.

By winning severance of a charge of contributing to the delinquency of a minor (CDM) from other charges, of which he was ultimately acquitted, defendant waived double-jeopardy protection from later prosecution for CDM, but did not waive the shield of collateral estoppel; thus, the prosecution was estopped from re-litigating whether he assisted in an armed robbery in the ways the complainant asserted, but could try to prove he committed CDM in some other way, even if the conduct would also constitute aiding and abetting robbery. Joya v. United States, 53 A.3d 309, 2012 D.C. App. LEXIS 480 (2012).

CHAPTER 8B. CRIMES AGAINST PUBLIC OFFICIALS.

Sec.
22-851. Protection of District public officials.

§ 22-851. Protection of District public officials.

(a) For the purposes of this section, the term:

(1) "Family member" means an individual to whom the official or employee of the District of Columbia is related by blood, legal custody, marriage, domestic partnership, having a child in common, the sharing of a mutual

residence, or the maintenance of a romantic relationship not necessarily including a sexual relationship.

(2) "Official or employee" means a person who currently holds or formerly held a paid or unpaid position in the legislative, executive, or judicial branch of government of the District of Columbia, including boards and commissions.

(b) A person who corruptly or, by threat or force, or by any threatening letter or communication, intimidates, impedes, interferes with, or retaliates against, or attempts to intimidate, impede, interfere with, or retaliate against any official or employee, while the official or employee is engaged in the performance of his or her duties or on account of the performance of those duties, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both.

(c) A person who stalks, threatens, assaults, kidnaps, or injures any official or employee or vandalizes, damages, destroys, or takes the property of an official or employee, while the official or employee is engaged in the performance of his or her duties or on account of the performance of those duties, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 3 years, or both, in addition to any other penalties authorized by law.

(d) A person who stalks, threatens, assaults, kidnaps, or injures a family member or vandalizes, damages, destroys, or takes the property of a family member on account of the performance of the official or employee's duties, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 3 years, or both, in addition to any other penalties authorized by law.

(Apr. 24, 2007, D.C. Law 16-306, § 106, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 206(e), 60 DCR 2064.)

Section references. — This section is referenced in § 5-132.21.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (b), and for "not more than $3,000" in (c) and (d).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 206(e) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 9. COMMERCIAL COUNTERFEITING.

Sec.
22-902. Trademark counterfeiting.

§ 22-902. Trademark counterfeiting.

(a) A person commits the offense of counterfeiting if such person willfully manufactures, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute any items, or services bearing or identified by a counterfeit mark. There shall be a rebuttable presumption that a person having possession, custody, or control of more than 15 items bearing a counterfeit mark possesses said items with the intent to sell or distribute.

(b) A person convicted of counterfeiting shall be subject to the following penalties:

(1) For the first conviction, except as provided in paragraphs (2) and (3) of this subsection, by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 180 days, or both;

(2) For the second conviction, or if convicted under this section of an offense involving more than 100 but fewer than 1,000 items, or involving items with a total retail value greater than $1,000 but less than $10,000, by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 3 years, or both; and

(3) For the third or subsequent conviction, or if convicted under this section of an offense involving the manufacture or production of items bearing counterfeit marks involving 1,000 or more items, or involving items with a total retail value of $10,000 or greater, by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 10 years, or both.

(c) For the purposes of this chapter, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, advertises, distributes, offers for sale, sells, or possesses.

(d) The fines provided in subsection (b) of this section shall be no less than twice the retail value of the items bearing, or services identified by, a counterfeit mark, unless extenuating circumstances are shown by the defendant.

(e) Any items bearing a counterfeit mark and all personal property, including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities, or vehicles of any kind, employed or used in connection with a violation of this chapter shall be seized by any law enforcement officer, including any designated civilian employee of the Metropolitan Police Department, in accordance with the procedures established by § 48-905.02.

(1) All seized personal property shall be forfeited.

(2) Upon the request of the owner of the intellectual property, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition.

(3) If the owner of the intellectual property does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the owner of the intellectual property consents to another disposition.

(f) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(g) The remedies provided for herein shall be cumulative to the other civil and criminal remedies provided by law.

(June 3, 1997, D.C. Law 11-271, § 3, 43 DCR 4585; June 12, 1999, D.C. Law 12-284, § 3, 46 DCR 1328; June 11, 2013, D.C. Law 19-317, §§ 111(b), 207, 60 DCR 2064.)

Section references. — This section is referenced in § 16-801.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317, in (b), substituted "not more than the amount set forth in § 22-3571.01" for "not exceeding $1,000" in (b)(1), for "not exceeding $3,000" in (b)(2), and for "not exceeding $10,000" in (b)(3); and substituted "twice" for "3 times" in (d).

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 111(b) and 207 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 9A. CRIMINAL ABUSE AND NEGLECT OF VULNERABLE ADULTS.

Sec.
22-936. Penalties.

§ 22-934. Criminal negligence.

CASE NOTES

Evidence held insufficient.

Evidence was insufficient to convict appellant of criminal neglect of a vulnerable adult under D.C. Code § 22-934 as appellant's decision to push the complainant to the nearest hospital to get help, even knowing that her foot was dragging on the ground, could not, by itself, support an inference that appellant was acting with reckless indifference in the face of the trial court's finding that appellant did not know what else to do. Tarpeh v. United States, 62 A.3d 1266, 2013 D.C. App. LEXIS 79 (2013).

§ 22-936. Penalties.

(a) A person who commits the offense of criminal abuse or criminal neglect of a vulnerable person shall be subject to a fine of not more than the amount set forth in § 22-3571.01, imprisoned for not more than 180 days, or both.

(b) A person who commits the offense of criminal abuse or criminal neglect of a vulnerable adult which causes serious bodily injury or severe mental distress shall be subject to a fine of not more than the amount set forth in § 22-3571.01, imprisoned up to 10 years, or both.

(c) A person who commits the offense of criminal abuse or criminal neglect of a vulnerable adult which causes permanent bodily harm or death shall be subject to a fine of not more than the amount set forth in § 22-3571.01, imprisoned up to 20 years, or both.

(June 8, 2001, D.C. Law 13-301, § 206, 47 DCR 7039; June 11, 2013, D.C. Law 19-317, § 208, 60 DCR 2064.)

Section references. — This section is referenced in § 16-801 and § 22-951.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "up to $1,000" in (a), for "up to $100,000" in (b), and for "up to $250,000" in (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 208 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Chapter 9B. Criminal Street Gangs.

Sec.
22-951. Criminal street gangs.

§ 22-951. Criminal street gangs.

(a)(1) It is unlawful for a person to solicit, invite, recruit, encourage, or otherwise cause, or attempt to cause, another individual to become a member of, remain in, or actively participate in what the person knows to be a criminal street gang.

(2) A person convicted of a violation of this subsection shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 6 months, or both.

(b)(1) It is unlawful for any person who is a member of or actively participates in a criminal street gang to knowingly and willfully participate in any felony or violent misdemeanor committed for the benefit of, at the direction of, or in association with any other member or participant of that criminal street gang.

(2) A person convicted of a violation of this subsection shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(c)(1) It is unlawful for a person to use or threaten to use force, coercion, or intimidation against any person or property, in order to:

(A) Cause or attempt to cause an individual to:

(i) Join a criminal street gang;

(ii) Participate in activities of a criminal street gang;

(iii) Remain as a member of a criminal street gang; or

(iv) Submit to a demand made by a criminal street gang to commit a felony in violation of the laws of the District of Columbia, the United States, or any other state; or

(B) Retaliate against an individual for a refusal to:

(i) Join a criminal street gang;

(ii) Participate in activities of a criminal street gang;

(iii) Remain as a member of a criminal street gang; or

(iv) Submit to a demand made by a criminal street gang to commit a

felony in violation of the laws of the District of Columbia, the United States, or any other state.

(2) A person convicted of a violation of this subsection shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(d) The penalties under this section are in addition to any other penalties permitted by law.

(e) For the purposes of this section, the term:

(1) "Criminal street gang" means an association or group of 6 or more persons that:

(A) Has as a condition of membership or continued membership, the committing of or actively participating in committing a crime of violence, as defined by § 23-1331(4)); or

(B) Has as one of its purposes or frequent activities, the violation of the criminal laws of the District, or the United States, except for acts of civil disobedience.

(2) "Violent misdemeanor" shall mean:

(A) Destruction of property (§ 22-303);

(B) Simple assault (§ 22-404(a));

(C) Stalking (§ 22-404(b) [see now § 22-3132]);

(D) Threats to do bodily harm (§ 22-407);

(E) Criminal abuse or criminal neglect of a vulnerable adult (§ 22-936(a));

(F) Cruelty to animals (§ 22-1001(a)); and

(G) Possession of prohibited weapon (§ 22-4514).

(Apr. 24, 2007, D.C. Law 16-306, § 101, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 206(a), 60 DCR 2064.)

Section references. — This section is referenced in § 22-811.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (a)(2), for "not more than $5,000" in (b)(2), and for "not more than $10,000" in (c)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 206(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 10. CRUELTY TO ANIMALS.

Sec.

§ 22-1001. Definitions and penalties.

Section references. — This section is referenced in § 8-2033, § 22-951, § 22-1002, § 22-1006, § 22-1006.01, § 22-1007, § 22-1009, § 22-1011, § 22-1012, and § 22-1013.

CASE NOTES

Weight and sufficiency of evidence.

Conviction for attempted cruelty to animals was affirmed because the evidence was sufficient to show general intent with malice in that defendant acted without justification or excuse by putting poison in a bowl that was used to feed feral cats in a neighborhood. Dauphine v. United States, 73 A.3d 1029, 2013 D.C. App. LEXIS 527 (2013).

§ 22-1006.01. Penalty for engaging in animal fighting.

(a) Any person who: (1) organizes, sponsors, conducts, stages, promotes, is employed at, collects an admission fee for, or bets or wagers any money or other valuable consideration on the outcome of an exhibition between two or more animals of fighting, baiting, or causing injury to each other; (2) any person who owns, trains, buys, sells, offers to buy or sell, steals, transports, or possesses any animal with the intent that it engage in any such exhibition; (3) any person who knowingly allows any animal used for such fighting or baiting to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by him; (4) any person who owns, manages, or operates any facility and knowingly allows that facility to be kept or used for the purpose of fighting or baiting any animal; (5) any person who knowingly or recklessly permits any act described in this subsection, to be done on any premises under his or her ownership or control, or who aids or abets that act; or (6) any person who is knowingly present as a spectator at any such exhibition, is guilty of a felony, punishable by a fine of not more than the amount set forth in § 22-3571.01, imprisonment not to exceed 5 years, or both. The court may also impose any penalties listed in § 22-1001(a).

(b) Repealed.

(c) For the purposes of this section, the term:

(1) "Animal" means a vertebrate other than a human, including, but not limited to, dogs and cocks.

(2) "Baiting" means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals.

(3) "Fighting" means an organized event wherein there is a display of combat between 2 or more animals in which the fighting, killing, maiming, or injuring of an animal is a significant feature, or main purpose, of the event.

(June 25, 1892, 27 Stat. 61, ch. 135, § 6a, as added June 8, 2001, D.C. Law 13-303, § 3(a), 47 DCR 7307; Dec. 5, 2008, D.C. Law 17-281, § 109, 55 DCR 9186; June 11, 2013, D.C. Law 19-317, § 210, 60 DCR 2064.)

Section references. — This section is referenced in § 22-1015.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $25,000" in (a).

Emergency legislation. — For temporary

(90 days) amendment of this section, see § 210 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1012. Abandonment of maimed or diseased animal; destruction of diseased animals; disposition of animal or vehicle on arrest of driver; scientific experiments.

(a) A person being the owner or possessor or having charge or custody of a maimed, diseased, disabled, or infirm animal who abandons such animal, or leaves it to lie in the street or road, or public place, more than 3 hours after he or she receives notice that it is left disabled, is guilty of a misdemeanor punishable by a fine of not less than $10 and not more than the amount set forth in § 22-3571.01, or by imprisonment in jail not more than 180 days, or both. Any agent or officer of the Washington Humane Society may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of 2 reputable citizens called by such officer to view the same in such officer's presence, to be glandered, injured, or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal, or of any vehicle drawn by any animal, or containing any animal, any agent of said society may take charge of such animal and such vehicle and its contents and deposit the same in a place of safe custody or deliver the same into the possession of the police authorities, who shall assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

(b) Nothing contained in §§ 22-1001 to 22-1009, inclusive, and §§ 22-1011 and 22-1309 shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

(Aug. 23, 1871, Leg. Assem., p. 138, ch. 106, § 11; June 25, 1892, 27 Stat. 60, ch. 135, § 4; May 21, 1994, D.C. Law 10-119, § 6, 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 102(b), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 209(b), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "and not more than the amount set forth in § 22-3571.01" for "nor more than $250" in (a).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 209(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1006.01.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Chapter 11. Cruelty to Children.

Sec.
22-1101. Definition and penalty.
22-1102. Refusal or neglect of guardian to provide for child under 14 years of age.

§ 22-1101. Definition and penalty.

(a) A person commits the crime of cruelty to children in the first degree if that person intentionally, knowingly, or recklessly tortures, beats, or otherwise willfully maltreats a child under 18 years of age or engages in conduct which creates a grave risk of bodily injury to a child, and thereby causes bodily injury.

(b) A person commits the crime of cruelty to children in the second degree if that person intentionally, knowingly, or recklessly:

(1) Maltreats a child or engages in conduct which causes a grave risk of bodily injury to a child; or

(2) Exposes a child, or aids and abets in exposing a child in any highway, street, field house, outhouse or other place, with intent to abandon the child.

(c)(1) Any person convicted of cruelty to children in the first degree shall be fined not more than $10,000 or be imprisoned not more than 15 years, or both.

(2) Any person convicted of cruelty to children in the second degree shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 10 years, or both.

(Feb. 13, 1885, 23 Stat. 303, ch. 58, § 3; Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 814; May 21, 1994, D.C. Law 10-119, § 7, 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 201, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 211, 60 DCR 2064.)

Section references. — This section is referenced in § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (c)(1) and (c)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 211 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Analysis

Construction.
Weight and sufficiency of evidence.

Construction.

Operative language of D.C. Code § 22-1101, as distinguished from its title, effectively treats reckless disregard of a grave risk of bodily injury to a child as the substantial equivalent of cruelty; the prosecution therefore does not have to prove that a defendant intended to cause his or her children any harm. Mitchell v. United States, 64 A.3d 154, 2013 D.C. App. LEXIS 148 (2013).

Weight and sufficiency of evidence.

Defendant was properly convicted of second-degree cruelty to children in violation of D.C. Code § 22-1101(b) because an impartial juror

could find beyond a reasonable doubt that revolvers and shotguns on the living room sofa, all loaded and "ready for action," created a grave risk of injury to children who could be watching television five feet away; an impartial jury could find that defendant's apartment was the locus of a drug-selling operation, and the loaded weapons were there to protect the business and those that operated it. Mitchell v. United States, 64 A.3d 154, 2013 D.C. App. LEXIS 148 (2013).

Evidence was sufficient to support defendant's conviction for second-degree cruelty to a child, in violation of D.C. Code § 22-1101(b), because, when an adult, who was not entitled to custody of the adult's child, attempted to take the child onto a bus, the child's grandparent tried to stop the adult by pulling the adult's hair. A struggle ensued, in which the grandparent struck the adult, while the adult was carrying the adult's child, which resulted in the child falling to the ground and receiving a visible head injury. Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

§ 22-1102. Refusal or neglect of guardian to provide for child under 14 years of age.

Any person within the District of Columbia, of sufficient financial ability, who shall refuse or neglect to provide for any child under the age of 14 years, of which he or she shall be the parent or guardian, such food, clothing, and shelter as will prevent the suffering and secure the safety of such child, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by a fine of not more than the amount set forth in § 22-3571.01, or by imprisonment in the Workhouse of the District of Columbia for not more than 3 months, or both such fine and imprisonment.

(Mar. 3, 1901, 31 Stat. 1095, ch. 847, § 4; June 11, 2013, D.C. Law 19-317, § 212, 60 DCR 2064.)

Section references. — This section is referenced in § 16-801.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $100".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 212 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1101.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 12A. DETECTION DEVICE TAMPERING.

Sec.
22-1211. Tampering with a detection device.

§ 22-1211. Tampering with a detection device.

(a)(1) It is unlawful for a person who is required to wear a device as a condition of a protection order, pretrial, presentence, or predisposition release, probation, supervised release, parole, or commitment, or who is required to wear a device while incarcerated, to:

(A) Intentionally remove or alter the device, or to intentionally interfere with or mask or attempt to interfere with or mask the operation of the device;

(B) Intentionally allow any unauthorized person to remove or alter the

device, or to intentionally interfere with or mask or attempt to interfere with or mask the operation of the device; or

(C) Intentionally fail to charge the power for the device or otherwise maintain the device's battery charge or power.

(2) For the purposes of this subsection, the term "device" includes a bracelet, anklet, or other equipment with electronic monitoring capability or global positioning system or radio frequency identification technology.

(b) Whoever violates this section shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 180 days, or both.

(Dec. 10, 2009, D.C. Law 18-88, § 103, 56 DCR 7413; June 3, 2011, D.C. Law 18-377, § 8, 58 DCR 1174; June 11, 2013, D.C. Law 19-317, § 213(c), 60 DCR 2064; June 19, 2013, D.C. Law 19-320, § 101, 60 DCR 3390.)

Section references. — This section is referenced in § 23-581.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b).

The 2013 amendment by D.C. Law 19-320 added (a)(1)(C); and made related changes.

Emergency legislation.

For temporary amendment of (a)(1), see § 101 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 101 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

For temporary (90 days) amendment of this section, see § 213(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 13. DISTURBANCES OF THE PUBLIC PEACE.

§ 22-1301. Affrays.

Whoever is convicted of an affray in the District shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

(July 16, 1912, 37 Stat. 192, ch. 235, § 1; Dec. 23, 1963, 77 Stat. 617, Pub. L. 88-241, § 11(a); Aug. 20, 1994, D.C. Law 10-151, § 107, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 203(a)(1), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 203(a)(1) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1307. Crowding, obstructing, or incommoding.

(a) It is unlawful for a person, alone or in concert with others:

(1) To crowd, obstruct, or incommode:

(A) The use of any street, avenue, alley, road, highway, or sidewalk;

(B) The entrance of any public or private building or enclosure;

(C) The use of or passage through any public building or public conveyance; or

(D) The passage through or within any park or reservation; and

(2) To continue or resume the crowding, obstructing, or incommoding after being instructed by a law enforcement officer to cease the crowding, obstructing, or incommoding.

(b)(1) It is unlawful for a person, alone or in concert with others, to engage in a demonstration in an area where it is otherwise unlawful to demonstrate and to continue or resume engaging in a demonstration after being instructed by a law enforcement officer to cease engaging in a demonstration.

(2) For purposes of this subsection, the term "demonstration" means marching, congregating, standing, sitting, lying down, parading, demonstrating, or patrolling by one or more persons, with or without signs, for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief.

(c) A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 90 days, or both.

(July 29, 1892, 27 Stat. 323, ch. 320, § 6; July 8, 1898, 30 Stat. 723, ch. 638; June 29, 1953, 67 Stat. 97, ch. 159, § 210; May 26, 2011, D.C. Law 18-375, § 2(a), 58 DCR 731; June 11, 2013, D.C. Law 19-317, § 214(a), 60 DCR 2064; June 19, 2013, D.C. Law 19-320, § 102, 60 DCR 3390.)

Section references. — This section is referenced in § 23-101.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500".

The 2013 amendment by D.C. Law 19-320 rewrote this section and the section heading.

Emergency legislation.

For temporary amendment of section, see § 102 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012

(D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 102 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

For temporary (90 days) amendment of this section, see § 214(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1301.

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Construction with other law.

No narrowing construction of 40 U.S.C.S. § 6135 was necessary to prevent the creation of a statutory vacuum in an area where appropriately narrow regulations may be necessary to protect legitimate state interests because 18 U.S.C.S. § 1507, as well as D.C. Code § 22-1307, which required compliance with law enforcement authorities to avoid blocking use of streets or buildings' entrances, satisfied interests of ensuring ingress and egress into the Supreme Court building, maintaining proper order and decorum, and preserving the appearance of the U.S. Supreme Court as a body not swayed by external influence. Hodge v. Talkin, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 81727 (D.D.C. June 11, 2013).

§ 22-1312. Lewd, indecent, or obscene acts; sexual proposal to a minor.

It is unlawful for a person, in public, to make an obscene or indecent exposure of his or her genitalia or anus, to engage in masturbation, or to engage in a sexual act as defined in § 22-3001(8). It is unlawful for a person to make an obscene or indecent sexual proposal to a minor. A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 90 days, or both.

(July 29, 1892, 27 Stat. 324, ch. 320, § 9; July 8, 1898, 30 Stat. 724, ch. 638; Sept. 26, 1942, 56 Stat. 760, ch. 565; June 9, 1948, 62 Stat. 346, ch. 428, title I, § 101; June 29, 1953, 67 Stat. 92, ch. 159, § 202(a)(1); Apr. 24, 2007, D.C. Law 16-306, § 210, 53 DCR 8610; May 26, 2011, D.C. Law 18-375, § 2(b), 58 DCR 731; Sept. 26, 2012, D.C. Law 19-171, § 79, 59 DCR 6190; June 11, 2013, D.C. Law 19-317, § 214(b), 60 DCR 2064.)

Section references. — This section is referenced in § 22-1809, § 22-4001, § 22-4151, § 23-101, and § 23-581.

Effect of amendments.

The 2012 amendment by D.C. Law 19-171 made a technical correction to the 1892 act which did not affect this section as codified.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 214(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-171. — Law 19-171, the "Technical Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C.

Law 19-171 became effective on September 26, 2012.

Legislative history of Law 19-317. — See note to § 22-1301.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1314.02. Prohibited acts.

(a) It shall be unlawful for a person, except as otherwise authorized by District or federal law, alone or in concert with others, to willfully or recklessly interfere with access to or from a medical facility or to willfully or recklessly disrupt the normal functioning of such facility by:

(1) Physically obstructing, impeding, or hindering the free passage of an individual seeking to enter or depart the facility or from the common areas of the real property upon which the facility is located;

(2) Making noise that unreasonably disturbs the peace within the facility;

(3) Trespassing on the facility or the common areas of the real property upon which the facility is located;

(4) Telephoning the facility repeatedly to harass or threaten owners, agents, patients, and employees, or knowingly permitting any telephone under his or her control to be so used for the purpose of threatening owners, agents, patients, and employees; or

(5) Threatening to inflict injury on the owners, agents, patients, employees, or property of the medical facility or knowingly permitting any telephone under his or her control to be used for such purpose.

(b) A person shall not act alone or in concert with others with the intent to prevent a health professional or his or her family from entering or leaving the health professional's home.

(c) Subsections (a) and (b) of this section shall not be construed to prohibit any otherwise lawful picketing or assembly.

(d) Any person who violates subsections (a) or (b) of this section, upon conviction, shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 180 days, or both.

(July 29, 1892, 27 Stat. 322, ch. 320, § 11b, as added Sept. 20, 1996, D.C. Law 11-157, § 2, 43 DCR 3699; June 11, 2013, D.C. Law 19-317, § 214(c), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801 and § 22-1314.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (d).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 214(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1301.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1319. False alarms and false reports; hoax weapons.

(a) It shall be unlawful for any person or persons to willfully or knowingly give a false alarm of fire within the District of Columbia, and any person or persons violating the provisions of this subsection shall, upon conviction, be

deemed guilty of a misdemeanor and be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 6 months, or by both such fine and imprisonment. Prosecutions for violation of the provisions of this subsection shall be on information filed in the Superior Court of the District of Columbia by the Office of the Attorney General for the District of Columbia.

(a-1) It shall be unlawful for any person or persons to willfully or knowingly use, or allow the use of, the 911 call system to make a false or fictitious report or complaint which initiates a response by District of Columbia emergency personnel or officials when, at the time of the call or transmission, the person knows the report or complaint is false. Any person or persons violating the provisions of this subsection shall, upon conviction, be deemed guilty of a misdemeanor and be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 6 months. Prosecutions for violation of the provisions of this subsection shall be on information filed in the Superior Court of the District of Columbia by the Office of the Attorney General for the District of Columbia.

(b)(1) It shall be unlawful for any person to willfully or knowingly make, or cause to be made, a false or fictitious report to any individual which initiates a response by District of Columbia emergency personnel or officials, wherein such report involves, is alleged to involve, or may reasonably be deemed to involve, the delivery, presence, or use of a weapon of mass destruction, as defined by § 22-3152(12), within the District of Columbia.

(2) It shall be a violation of this subsection for any person to willfully and knowingly give, transport, mail, send, or cause to be sent any hoax weapon of mass destruction, as defined by § 22-3152(3), to another person or to place any such hoax weapon of mass destruction in or upon any real or personal property.

(3) Any person violating the provisions of this subsection shall, upon conviction, be guilty of a misdemeanor and be punished by imprisonment of not more than one year or fined in an amount not more than the amount set forth in § 22-3571.01 or the costs of responding to and consequential damages resulting from the offense, or both.

(c)(1) It shall be unlawful for anyone to willfully or knowingly, with the intent of intimidating or frightening people, causing panic or civil unrest, extorting profit, or causing economic damage, make, or cause to be made, a false or fictitious report to any individual, which initiates a response by District of Columbia emergency personnel or officials, wherein such report involves, is alleged to involve, or may reasonably be deemed to involve, the delivery, presence, or use of a weapon of mass destruction, as defined by § 22-3152(12), within the District of Columbia.

(2) It shall be a violation of this subsection for any person to willfully or knowingly, with the intent of intimidating or frightening people, causing panic or civil unrest, extorting profit, or causing economic damage, give, transport, mail, send, or cause to be sent any hoax weapon of mass destruction, as defined by § 22-3152(3), to another person or to place any such hoax weapon of mass destruction in or upon any real or personal property.

(3) Any person violating the provisions of this subsection shall, upon conviction, be guilty of a felony and may be punished by imprisonment of not

more than 5 years or fined in an amount not more than the amount set forth in § 22-3571.01 or the costs of responding to and consequential damages resulting from the offense, or both.

(d)(1) It shall be unlawful for any person to willfully or knowingly, during a state of emergency, as declared by the Mayor pursuant to § 7-2304, with the intent of intimidating or frightening people, causing panic or civil unrest, extorting profit, or causing economic damage, make, or cause to be made, a false or fictitious report to any individual, which initiates a response by District of Columbia emergency personnel or officials, wherein such report involves, is alleged to involve, or may reasonably be deemed to involve, the delivery, presence, or use of a weapon of mass destruction, as defined by § 22-3152(12), within the District of Columbia.

(2) It shall be a violation of this subsection for any person to willfully or knowingly, during a state of emergency, as declared by the Mayor pursuant to § 7-2304, with the intent of intimidating or frightening people, causing panic or civil unrest, extorting profit, or causing economic damage, give, transport, mail, send, or cause to be sent any hoax weapon of mass destruction, as defined by § 22-3152(3), to another person or to place any such hoax weapon of mass destruction in or upon any real or personal property.

(3) Any person violating the provisions of this subsection shall, upon conviction, be guilty of a felony and may be punished by imprisonment of not more than 10 years or fined in an amount not more than the amount set forth in § 22-3571.01 or the cost of responding to and consequential damages resulting from the offense, or both.

(e) For the purposes of subsections (b), (c), and (d) of this section, the manner in which the false or fictitious report is communicated may include, but is not limited to:

(1) A writing;

(2) An electronic transmission producing a visual, audio, or written result;

(3) An oral statement; or

(4) A signing.

(f) There is jurisdiction to prosecute any person who participates in the commission of any offense described in this section if any act in furtherance of the offense occurs in the District of Columbia or where the effect of any act in furtherance of the offense occurs in the District of Columbia.

(June 8, 1906, 34 Stat. 220, ch. 3055, § 1; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); May 21, 1994, D.C. Law 10-119, § 8, 41 DCR 1639; Oct. 17, 2002, D.C. Law 14-194, § 153, 49 DCR 5306; Apr. 7, 2006, D.C. Law 16-91, § 142, 52 DCR 10637; May 26, 2011, D.C. Law 18-373, § 3,; June 11, 2013, D.C. Law 19-317, § 215, 60 DCR 2064.)

Section references. — This section is referenced in § 5-117.05.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not exceeding $1,000" in (a) and (a-1), for "not to exceed the greater of $10,000" in (b)(3), for "not to exceed the greater of $50,000" in (c)(3), and for "not to exceed $100,000" in (d)(3).

Emergency legislation.
For temporary (90 days) amendment of this section, see § 215 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1301.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1321. Disorderly conduct.

(a) In any place open to the general public, and in the communal areas of multi-unit housing, it is unlawful for a person to:

(1) Intentionally or recklessly act in such a manner as to cause another person to be in reasonable fear that a person or property in a person's immediate possession is likely to be harmed or taken;

(2) Incite or provoke violence where there is a likelihood that such violence will ensue; or

(3) Direct abusive or offensive language or gestures at another person (other than a law enforcement officer while acting in his or her official capacity) in a manner likely to provoke immediate physical retaliation or violence by that person or another person.

(b) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct, with the intent and effect of impeding or disrupting the orderly conduct of a lawful public gathering, or of a congregation of people engaged in any religious service or in worship, a funeral, or similar proceeding.

(c) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct with the intent and effect of impeding or disrupting the lawful use of a public conveyance by one or more other persons.

(c-1) It is unlawful for a person to engage in loud, threatening, or abusive language, or disruptive conduct in a public building with the intent and effect of impeding or disrupting the orderly conduct of business in that public building.

(d) It is unlawful for a person to make an unreasonably loud noise between 10:00 p.m. and 7:00 a.m. that is likely to annoy or disturb one or more other persons in their residences.

(e) It is unlawful for a person to urinate or defecate in public, other than in a urinal or toilet.

(f) It is unlawful for a person to stealthily look into a window or other opening of a dwelling, as defined in § 6-101.07, under circumstances in which an occupant would have a reasonable expectation of privacy. It is not necessary that the dwelling be occupied at the time the person looks into the window or other opening.

(g) It is unlawful, under circumstances whereby a breach of the peace may be occasioned, to interfere with any person in any public place by jostling against the person, unnecessarily crowding the person, or placing a hand in the proximity of the person's handbag, pocketbook, or wallet.

(h) A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than the amount set forth in § 22-3571.01, imprisoned not more than 90 days, or both.

(June 29, 1953, 67 Stat. 98, ch. 159, § 211(a); redesignated § 211, May 21, 1994, D.C. Law 10-119, § 9(a), 41 DCR 1639; May 26, 2011, D.C. Law 18-375,§ 3(a), 58 DCR 731; June 11, 2013, D.C. Law 19-317, § 202(c), 60 DCR 2064; June 19, 2013, D.C. Law 19-320, § 103, 60 DCR 3390.)

Section references. — This section is referenced in § 16-801 and § 22-1809.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500" in (h).

The 2013 amendment by D.C. Law 19-320 substituted "with the intent and effect of impeding or disrupting" for "which unreasonably impedes, disrupts, or disturbs" in (c); and added (c-1).

Emergency legislation.

For temporary amendment of (c) and addition of (c-1), see § 103 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 103 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

For temporary (90 days) amendment of this section, see § 202(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1301.

Legislative history of Law 19-320. — See note to § 22-1307.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Arrest.
Instructions.
Probable cause.

Arrest.

Defendant's detention while checking for warrants violated the Fourth Amendment because (1) an officer's original reasonable suspicion to believe defendant had violated former D.C. Code § 22-1321 by urinating in public had been dissipated, as the officer learned defendant did not urinate and that no one else saw defendant's conduct, so that conduct did not menace public order, and (2) defendant did not feel free to leave. Ramsey v. United States, 73 A.3d 138, 2013 D.C. App. LEXIS 496 (2013).

Where a protester was arrested for using profanity in a public park, the protester's claims under the First and Fourth Amendments survived because no reasonable officer could conclude that the conduct was likely to produce violence or otherwise cause a breach of the peace, as required to justify either punishing the speech under the First Amendment or arresting the protester for disorderly conduct since, inter alia, the protester allegedly cursed quietly while looking up at the sky in an almost empty park, and all subsequent profanity was directed solely towards the officers. Patterson v. United States, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 178087 (D.D.C. Dec. 19, 2013).

Instructions.

If breach-of-peace element of jury instruction misstated law under former D.C. Code § 22-1321, error was harmless because defendants' claim to prejudice depended on showing jury might have credited evidence about rubbernecking but not evidence about activity in nearby apartments; defendants pointed to no evidence that supported claims about rubbernecking without also supporting claims about neighbors waking up. Huthnance v. District of Columbia, 722 F.3d 371, 2013 U.S. App. LEXIS 13784 (D.C. Cir. 2013).

Probable cause.

Police officers did not have probable cause to arrest occupants of house for District of Columbia offense of disorderly conduct; even if officers were told of reports of a loud party or loud music and some officers heard loud music upon arrival, there were no reports of noise that was so unreasonably loud or sustained for such a lengthy period of time as to constitute disorderly conduct, and when the officers arrived on the scene, they did not observe unreasonably loud, sustained noise that disturbed a considerable number of persons. Wesby v. District of Columbia, 841 F.Supp.2d 20, 2012 U.S. Dist. LEXIS 5680 (2012).

§ 22-1322. Rioting or inciting to riot.

(a) A riot in the District of Columbia is a public disturbance involving an

assemblage of 5 or more persons which by tumultuous and violent conduct or the threat thereof creates grave danger of damage or injury to property or persons.

(b) Whoever willfully engages in a riot in the District of Columbia shall be punished by imprisonment for not more than 180 days or a fine of not more than the amount set forth in § 22-3571.01, or both.

(c) Whoever willfully incites or urges other persons to engage in a riot shall be punished by imprisonment for not more than 180 days or a fine of not more than the amount set forth in § 22-3571.01, or both.

(d) If in the course and as a result of a riot a person suffers serious bodily harm or there is property damage in excess of $5,000, every person who willfully incited or urged others to engage in the riot shall be punished by imprisonment for not more than 10 years or a fine of not more than the amount set forth in § 22-3571.01, or both.

(Dec. 27, 1967, 81 Stat. 742, Pub. L. 90-226, title IX, § 901; Aug. 20, 1994, D.C. Law 10-151, § 111, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 216, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b) and (c), and for "not more than $10,000" in (d).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 216 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1301.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1323. Obstructing bridges connecting D.C. and Virginia.

Effective with respect to conduct occurring on or after August 5, 1997, whoever in the District of Columbia knowingly and willfully obstructs any bridge connecting the District of Columbia and the Commonwealth of Virginia:

(1) Shall be fined not less than $1,000 and not more than $5,000, and in addition may be imprisoned not more than 30 days; or

(2) If applicable, shall be subject to prosecution by the District of Columbia under the provisions of District law and regulation amended by the Safe Streets Anti-Prostitution Amendment Act of 1996.

(3) The fine set forth in this section shall not be limited by § 22-3571.01.

(Aug. 5, 1997, 111 Stat. 782, Pub. L. 105-33, § 11712(e); June 11, 2013, D.C. Law 19-317, § 112(b), 60 DCR 2064.)

Section references. — This section is referenced in § 5-133.17.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added (3).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 112(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1301.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 13A. ENTRY INTO A MOTOR VEHICLE, UNLAWFUL.

§ 22-1341. Unlawful entry of a motor vehicle.

(a) It is unlawful to enter or be inside of the motor vehicle of another person without the permission of the owner or person lawfully in charge of the motor vehicle. A person who violates this subsection shall, upon conviction, be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 90 days, or both.

(b) Subsection (a) of this section shall not apply to:

(1) An employee of the District government in connection with his or her official duties;

(2) A tow crane operator who has valid authorization from the District government or from the property owner on whose property the motor vehicle is illegally parked; or

(3) A person with a security interest in the motor vehicle who is legally authorized to seize the motor vehicle.

(c) For the purposes of this section, the term "enter the motor vehicle" means to insert any part of one's body into any part of the motor vehicle, including the passenger compartment, the trunk or cargo area, or the engine compartment.

(Dec. 10, 2009, D.C. Law 18-88, § 102, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 213(b), 60 DCR 2064.)

Section references. — This section is referenced in § 23-581.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500" in (a).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 213(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 14. FALSE PRETENSES; FALSE PERSONATION.

§ 22-1402. Recordation of deed, contract, or conveyance with intent to extort money.

Whoever having no title or color of title to the land affected shall maliciously cause to be recorded in the office of the Recorder of Deeds of the District of Columbia any deed, contract, or other instrument purporting to convey or to relate to any land in said District with intent to extort money or anything of value from any person owning such land, or having any interest therein, shall be fined not less than $1,000 and not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

(June 30, 1902, 32 Stat. 535, ch. 1329, § 845a; Aug. 20, 1994, D.C. Law 10-151, § 106, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 217, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added "and not more than the amount set forth in § 22-3571.01".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 217 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1403. False personation before court, officers, notaries.

(a) Whoever falsely personates another person before any court of record or judge thereof, or clerk of court, or any officer in the District authorized to administer oaths or take the acknowledgment of deeds or other instruments or to grant marriage licenses or accepts domestic partnership registrations, with intent to defraud, shall be imprisoned for not less than 1 year nor more than 5 years.

(a-1) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(b) For the purposes of this section, the term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(Mar. 3, 1901, 31 Stat. 1330, ch. 854, § 859; Feb. 17, 1909, 35 Stat. 623, ch. 134; Sept. 12, 2008, D.C. Law 17-231, § 23(b), 55 DCR 6758; June 11, 2013, D.C. Law 19-317, § 303(n), 60 DCR 2064.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 added (a-1).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(n) of the Criminal Fine Proportionality

Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1404. Falsely impersonating public officer or minister.

Whoever falsely represents himself or herself to be a judge of the Superior Court of the District of Columbia, notary public, police officer, or other public officer, or a minister qualified to celebrate marriage, and attempts to perform the duty or exercise the authority pertaining to any such office or character, or having been duly appointed to any of such offices shall knowingly attempt to act as any such officers after his or her appointment or commission has expired or he or she has been dismissed from such office, shall suffer imprisonment in the penitentiary for not less than 1 year nor more than 3 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1330, ch. 854, § 860; Feb. 17, 1909, 35 Stat. 623, ch. 134; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); May 21, 1994, D.C. Law 10-119, § 2(h), 41 DCR 1639; May 17, 1996, D.C. Law 11-119, § 2, 43 DCR 528; June 11, 2013, D.C. Law 19-317, § 303(o), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(o) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1405. False personation of inspector of departments of District.

It shall be unlawful for any person in the District of Columbia to falsely represent himself or herself as being an inspector of the Department of Human Services of said District, or an inspector of any department of the District government; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction in the Superior Court of the District of Columbia shall be punished by a fine of not less than $10 nor more than $50 for the 1st offense, and for each subsequent offense by a fine of not less than $50 and not more than the amount set forth in § 22-3571.01, or imprisonment in the Jail of the District not exceeding 6 months, or both, in the discretion of the court.

(Mar. 2, 1897, 29 Stat. 619, ch. 364; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); June 11, 2013, D.C. Law 19-317, § 218, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "and not more than the amount set forth in § 22-3571.01" for "nor more than $100".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 218 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1406. False personation of police officer.

It shall be a misdemeanor, punishable by imprisonment in the District jail or penitentiary not exceeding 180 days, or by a fine not more than the amount set forth in § 22-3571.01, for any person, not a member of the police force, to falsely represent himself as being such member, with a fraudulent design.

(R.S., D.C., § 433; Aug. 20, 1994, D.C. Law 10-151, § 114, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 219 ac, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not exceeding $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 219(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1402.

Editor's notes.

Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Sufficiency of evidence.

Police officers did not have probable cause to search defendant's vehicle based on him impersonating a police officer at some point in the future because there was no evidence that defendant had any specific "fraudulent design" in mind at the time of his arrest; thus, there was no objective basis to support probable cause that his conduct was "about to" become criminal in nature. Tuckson v. United States, 77 A.3d 357, 2013 D.C. App. LEXIS 648 (2013).

§ 22-1409. Use of official insignia; penalty for unauthorized use.

(a) The Metropolitan Police Department and the Fire and Emergency Medical Services Department shall have the sole and exclusive rights to have and use, in carrying out their respective missions, the official badges, patches, emblems, copyrights, descriptive or designating marks, and other official insignia displayed upon their current and future uniforms.

(b) Any person who, for any reason, makes or attempts to make unauthorized use of, or aids or attempts to aid another person in the unauthorized use or attempted unauthorized use of the official badges, patches, emblems, copyrights, descriptive or designated marks, or other official insignia of the Metropolitan Police Department or the Fire and Emergency Medical Services Department shall, upon conviction, be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than one year, or both.

(June 3, 2002, D.C. Law 14-194, § 702, 49 DCR 5306; June 11, 2013, D.C. Law 19-317, § 220, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 220 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 15. FORGERY; FRAUDS.

§ 22-1502. Forging or imitating brands or packaging of goods.

Whoever wilfully forges, or counterfeits, or makes use of any imitation calculated to deceive the public, though with colorable difference or deviation therefrom, of the private brand, wrapper, label, trademark, bottle, or package usually affixed or used by any person to or with the goods, wares, merchandise, preparation, or mixture of such person, with intent to pass off any work, goods, manufacture, compound, preparation, or mixture as the manufacture or production of such person which is not really such, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

(Mar. 3, 1901, 31 Stat. 1333, ch. 854, § 879; Aug. 20, 1994, D.C. Law 10-151, § 105(e), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(v), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(v) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1510. Making, drawing, or uttering check, draft, or order with intent to defraud; proof of intent; "credit" defined.

Any person within the District of Columbia who, with intent to defraud, shall make, draw, utter, or deliver any check, draft, order, or other instrument for the payment of money upon any bank or other depository, knowing at the time of such making, drawing, uttering, or delivering that the maker or drawer has not sufficient funds in or credit with such bank or other depository for the payment of such check, draft, order, or other instrument in full upon its presentation, shall, if the amount of such check, draft, order, or other instrument is $1,000 or more, be guilty of a felony and fined not more than the amount set forth in § 22-3571.01 or imprisoned for not less than 1 year nor more than 3 years, or both; or if the amount of such check, draft, order, or other instrument has some value, be guilty of a misdemeanor and fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both. As against the maker or drawer thereof the making, drawing, uttering, or delivering by such maker or drawer of a check, draft, order, or other instrument, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in its possession or control, shall be prima facie evidence of the intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the holder thereof the amount due thereon, together with the amount of protest fees, if any, within 5 days after receiving notice in person, or writing, that such check, draft, order, or other instrument has not been paid. The word "credit," as used herein, shall be construed to mean arrangement or understanding, express or implied, with the bank or other depository for the payment of such check, draft, order, or other instrument.

(July 1, 1922, 42 Stat. 820, ch. 273; Oct. 22, 1970, 84 Stat. 1094, Pub. L. 91-497, § 3; Aug. 20, 1994, D.C. Law 10-151, § 108, 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 221, 60 DCR 2064; June 19, 2013, D.C. Law 19-320, § 104, 60 DCR 3390.)

Section references. — This section is referenced in § 28-3152.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317, in the first sentence, substituted the first occurrence of "not more than the amount set forth in § 22-3571.01" for "not more than $3,000", and the second occurrence for "not more than $1,000".

The 2013 amendment by D.C. Law 19-320, in the first sentence, substituted "instrument is $1,000 or more" for "instrument is $100 or more" and substituted "has some value" for "is less than $100".

Emergency legislation.

For temporary amendment of section, see § 104 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 104 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

For temporary (90 days) amendment of this section, see § 221 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1502.

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council

and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1513. Penalty under § 22-1511.

Any person, firm, or association violating any of the provisions of § 22-1511 shall upon conviction thereof, be punished by a fine of not more than the amount set forth in § 22-3571.01 or by imprisonment of not more than 60 days, or by both fine and imprisonment, in the discretion of the court. A corporation convicted of an offense under the provisions of § 22-1511 shall be fined not more than the amount set forth in § 22-3571.01, and its president or such other officials as may be responsible for the conduct and management thereof shall be imprisoned not more than 60 days, in the discretion of the court.

(May 29, 1916, 39 Stat. 165, ch. 130, § 3; June 11, 2013, D.C. Law 19-317, § 222, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500" twice.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 222 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1502.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1514. Fraudulent interference or collusion in jury selection.

If any person shall fraudulently tamper with any box or wheel used or intended by the jury commission for the names of prospective jurors, or of prospective condemnation jurors or commissioners, or shall fraudulently tamper with the contents of any such box or wheel, or with any jury list, or be guilty of any fraud or collusion with respect to the drawing of jurors or condemnation jurors or commissioners, or if any jury commissioner shall put in or leave out of any such box or wheel the name of any person at the request of such person, or at the request of any other person, or if any jury commissioner shall wilfully draw from any such box or wheel a greater number of names than is required by the court, any such person or jury commissioner so offending shall for each offense be punished by a fine of not more than the amount set forth in § 22-3571.01 or imprisonment for not more than 180 days, or both.

(Mar. 3, 1901, 31 Stat. 1223, ch. 854, § 213; Apr. 19, 1920, 41 Stat. 560, ch. 153, § 213; Mar. 27, 1968, 82 Stat. 63, Pub. L. 90-274, § 103(f); Aug. 20, 1994, D.C. Law 10-151, § 105(f), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(a), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1502.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 17. GAMBLING.

Subchapter I. General Provisions

Subchapter I. General Provisions.

§ 22-1701. Lotteries; promotion; sale or possession of tickets.

If any person shall within the District keep, set up, or promote, or be concerned as owner, agent, or clerk, or in any other manner, in managing, carrying on, promoting, or advertising, directly or indirectly, any policy lottery, policy shop, or any lottery, or shall sell or transfer any chance, right, or interest, tangible or intangible, in any policy lottery, or any lottery or shall sell or transfer any ticket, certificate, bill, token, or other device, purporting or intended to guarantee or assure to any person or entitle him or her to a chance of drawing or obtaining a prize to be drawn in any lottery, or in a game or device commonly known as policy lottery or policy or shall sell or transfer, or have in his or her possession for the purpose of sale or transfer, a chance or ticket in or share of a ticket in any lottery or any such bill, certificate, token, or other device, he or she shall be fined upon conviction of each said offense not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 3 years, or both. The possession of any copy or record of any such chance, right, or interest, or of any such ticket, certificate, bill, token, or other device shall be prima facie evidence that the possessor of such copy or record did, at the time and place of such possession, keep, set up, or promote, or was at such time and place concerned as owner, agent, or clerk, or otherwise in managing, carrying on, promoting, or advertising a policy lottery, policy shop, or lottery.

(Mar. 3, 1901, 31 Stat. 1330, ch. 854, § 863; June 30, 1902, 32 Stat. 535, ch. 1329; Apr. 5, 1938, 52 Stat. 198, ch. 72, § 1; May 21, 1994, D.C. Law 10-119, § 2(i), 41 DCR 1639; June 11, 2013, D.C. Law 19-317, § 201(n), 60 DCR 2064.)

Section references. — This section is referenced in § 22-1702, § 22-1705, § 22-1718, and § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 201(n) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes.

Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1702. Possession of lottery or policy tickets.

If any person shall, within the District of Columbia, knowingly have in his or her possession or under his control, any record, notation, receipt, ticket, certificate, bill, slip, token, paper, or writing, current or not current, used or to be used in violating the provisions of § 22-1701, § 22-1704, or § 22-1708, he or she shall, upon conviction of each such offense, be fined not more than the amount set forth in § 22-3571.01 or be imprisoned for not more than 180 days, or both. For the purpose of this section, possession of any record, notation, receipt, ticket, certificate, bill, slip, token, paper, or writing shall be presumed to be knowing possession thereof.

(Mar. 3, 1901, ch. 854, § 863a; Apr. 5, 1938, 52 Stat. 198, ch. 72, § 2; June 29, 1953, 67 Stat. 95, ch. 159, § 206(a); May 21, 1994, D.C. Law 10-119, § 2(j), 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 105(g), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(o), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(o) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1703. Permitting sale of lottery tickets on premises.

If any person shall knowingly permit, on any premises under his or her control in the District, the sale of any chance or ticket in or share of a ticket in any lottery or policy lottery, or shall knowingly permit any lottery or policy lottery, or policy shop on such premises, he or she shall be fined not less than $50 and not more than the amount set forth in § 22-3571.01, or be imprisoned not more than 180 days, or both.

(Mar. 3, 1901, 31 Stat. 1330, ch. 854, § 864; May 21, 1994, D.C. Law 10-119, § 2(k), 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 105(h), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(p), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "and not more than the amount set forth in § 22-3571.01" for "nor more than $500".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(p) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1704. Gaming; setting up gaming table; inducing play.

Whoever shall in the District set up or keep any gaming table, or any house, vessel, or place, on land or water, for the purpose of gaming, or gambling device commonly called A B C, faro bank, E O, roulette, equality, keno, thimbles, or little joker, or any kind of gaming table or gambling device adapted, devised, and designed for the purpose of playing any game of chance for money or property, or shall induce, entice, and permit any person to bet or play at or upon any such gaming table or gambling device, or on the side of or against the keeper thereof, shall be punished by imprisonment for a term of not more than 5 years and, in addition, may be fined not more than the amount set forth in § 22-3571.01. For the purposes of this section, the term "gambling device" shall not include slot machines manufactured before 1952, intended for exhibition or private use by the owner, and not used for gambling purposes. The term "slot machine" means a mechanical device, an essential part of which is a drum or reel which bears an insignia and which when operated may deliver, as a result of the application of an element of chance, a token, money, or property, or by operation of which a person may become entitled to receive, as a result of this application of an element of chance, a token, money, or property.

(Mar. 3, 1901, 31 Stat. 1331, ch. 854, § 865; Jan. 26, 1982, D.C. Law 4-59, § 2, 28 DCR 4766; June 11, 2013, D.C. Law 19-317, § 303(p), 60 DCR 2064.)

Section references. — This section is referenced in § 22-1702, § 22-1705, and § 22-1707.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added "and, in addition, may be fined not more than the amount set forth in § 22-3571.01" at the end of the first sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(p) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1705. Gambling premises; definition; prohibition against maintaining; forfeiture; liens; deposit of moneys in Treasury; penalty; subsequent offenses.

(a) Any house, building, vessel, shed, booth, shelter, vehicle, enclosure, room, lot, or other premises in the District of Columbia, used or to be used in violating the provisions of § 22-1701 or § 22-1704, shall be deemed "gambling premises" for the purpose of this section.

(b) It shall be unlawful for any person in the District of Columbia knowingly, as owner, lessee, agent, employee, operator, occupant, or otherwise, to maintain, or aid, or permit the maintaining of any gambling premises.

(c) All moneys, vehicles, furnishings, fixtures, equipment, stock (including, without limitation, furnishings and fixtures adaptable to nongambling uses, and equipment and stock for printing, recording, computing, transporting, safekeeping, or communication), or other things of value used or to be used: (1) in carrying on or conducting any lottery, or the game or device commonly known as a policy lottery or policy, contrary to the provisions of § 22-1701; (2) in setting up or keeping any gaming table, bank, or device contrary to the provisions of § 22-1704; or (3) in maintaining any gambling premises; shall be subject to seizure by any designated civilian employee of the Metropolitan Police Department or any member of the Metropolitan Police force, or the United States Park Police, or the United States Marshal, or any Deputy Marshal, for the District of Columbia, and any property seized regardless of its value shall be proceeded against in the Superior Court of the District of Columbia by libel action brought in the name of the District of Columbia by the Corporation Counsel or any Assistant Corporation Counsel, and shall, unless good cause be shown to the contrary, be forfeited to the District of Columbia and shall be made available for the use of any agency of the government of the District of Columbia, or otherwise disposed of as the Mayor of the District of Columbia may, by order or by regulation, provide; provided, that if there be bona fide liens against the property so forfeited, then such property shall be disposed of by public auction. The proceeds of the sale of such property shall be available, first, for the payment of all expenses incident to such sale; and, second, for the payment of such liens; and the remainder shall be deposited in the General fund of the District of Columbia. To the extent necessary, liens against said property so forfeited shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property.

(d) Whoever violates this section shall be imprisoned not more than 180 days or fined not more than the amount set forth in § 22-3571.01, or both, unless the violation occurs after the person has been convicted of a violation of this section, in which case the person may be imprisoned for not more than 5 years, or fined not more than the amount set forth in § 22-3571.01, or both.

(Mar. 3, 1901, 31 Stat. 1331, ch. 854, § 866; June 29, 1953, 67 Stat. 95, ch. 159, § 206(b); Sept. 21, 1961, 75 Stat. 540, Pub. L. 87-259, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); May 21, 1994, D.C. Law 10-119, § 2(l), 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 105(i), 41 DCR 2608; June 12, 1999, D.C. Law 12-284, § 4, 46 DCR 1328; Sept. 14, 2011, D.C. Law 19-21, § 9045, 58 DCR 6226; June 11, 2013, D.C. Law 19-317, § 201(q), 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317, in (d), substituted the first occurrence of "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" and the second occurrence of "not more than the amount set forth in § 22-3571.01" for "not more than $2,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(q) of the Criminal Fine Pro-

portionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1706. Three-card monte and confidence games.

Whoever shall in the District deal, play, or practice, or be in any manner accessory to the dealing or practicing, of the confidence game or swindle known as 3-card monte, or of any such game, play, or practice, or any other confidence game, play, or practice, shall be deemed guilty of a misdemeanor, and shall be punished by a fine not more than the amount set forth in § 22-3571.01 and by imprisonment for not more than 180 days.

(Mar. 3, 1901, 31 Stat. 1331, ch. 854, § 867; Aug. 20, 1994, D.C. Law 10-151, § 105(j), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(r), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not exceeding $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(r) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1708. Gambling pools and bookmaking; athletic contest defined.

It shall be unlawful for any person, or association of persons, within the District of Columbia to purchase, possess, own, or acquire any chance, right, or interest, tangible or intangible, in any policy lottery or any lottery, or to make or place a bet or wager, accept a bet or wager, gamble or make books or pools on the result of any athletic contest. For the purpose of this section, the term "athletic contest" means any of the following, wherever held or to be held: a football, baseball, softball, basketball, hockey, or polo game, or a tennis, golf, or wrestling match, or a tennis or golf tournament, or a prize fight or boxing match, or a trotting or running race of horses, or a running race of dogs, or any other athletic or sporting event or contest. Any person or association of persons violating this section shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

(Mar. 3, 1901, 31 Stat. 1331, ch. 854, § 869; May 16, 1908, 35 Stat. 164, ch. 172, § 3; June 29, 1953, 67 Stat. 96, ch. 159, § 206c; Aug. 20, 1994, D.C. Law 10-151, § 105(k), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(s), 60 DCR 2064.)

Section references. — This section is referenced in § 22-1702.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" and for "not

more than $1,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(s) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1713. Corrupt influence in connection with athletic contests.

(a) It shall be unlawful to pay or give, or to agree to pay or give, or to promise or offer, any valuable thing to any individual:

(1) With intent to influence such individual to lose or cause to be lost, or to attempt to lose or cause to be lost, or to limit or attempt to limit such individual or his or her team's margin of victory or score in, any professional or amateur athletic contest in which such individual is or may be a contestant or participant; or

(2) With intent to influence such individual, in the case of any professional or amateur athletic contest in connection with which such individual (as a manager, coach, owner, second, jockey, trainer, handler, groom, or otherwise) has or will have any duty or responsibility with respect to a contestant, participant, or team who or which is engaging or may engage therein, to cause or attempt to cause:

(A) The loss of such athletic contest by such contestant, participant, or team; or

(B) The margin of victory or score of such contestant, participant, or team to be limited; or

(3) With intent to influence such individual, in the case of any professional or amateur athletic contest in connection with which such individual is to be or may be a referee, judge, umpire, linesman, starter, timekeeper, or other similar official, to cause or attempt to cause:

(A) The loss of such athletic contest by any contestant, participant, or team who or which is engaging or may engage therein; or

(B) The margin of victory or score of any such contestant, participant, or team to be limited.

(b) It shall be unlawful for any individual to solicit or accept, or to agree to accept, any valuable thing or a promise or offer of any valuable thing:

(1) To influence such individual to lose or cause to be lost, or to attempt to lose or cause to be lost, or to limit or attempt to limit such individual or his or her team's margin of victory or score in, any professional or amateur athletic contest in which such individual is or may be a contestant or participant; or

(2) To influence such individual, in the case of any professional or amateur athletic contest in connection with which such individual (as a manager, coach, owner, second, jockey, trainer, handler, groom, or otherwise) has or will have any duty or responsibility with respect to a contestant, participant, or team who or which is engaging or may engage therein, to cause or attempt to cause:

(A) The loss of such athletic contest by such contestant, participant, or team; or

(B) The margin of victory or score of such contestant, participant, or team to be limited; or

(3) To influence such individual, in the case of any professional or amateur athletic contest in connection with which such individual is to be or may be a referee, judge, umpire, linesman, starter, timekeeper, or other similar official, to cause or attempt to cause:

(A) The loss of such athletic contest by any contestant, participant, or team who or which is engaging or may engage therein; or

(B) The margin of victory or score of any such contestant, participant, or team to be limited.

(c) Whoever violates any provision of subsection (a) of this section shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment for not less than 1 year nor more than 5 years and by a fine of not more than the amount set forth in § 22-3571.01.

(d) Whoever violates any provision of subsection (b) of this section shall, upon conviction thereof, be punished by imprisonment for not more than 1 year and by a fine of not more than the amount set forth in § 22-3571.01.

(e) As used in this section, the term "athletic contest" means any of the following, wherever held or to be held: a football, baseball, softball, basketball, hockey, or polo game, or a tennis or wrestling match, or a prize fight or boxing match, or a horse race or any other athletic or sporting event or contest.

(f) Nothing in this section shall be construed to prohibit the giving or offering of any bonus or extra compensation to any manager, coach, or professional player, or to any league, association, or conference for the purpose of encouraging such manager, coach, or player to a higher degree of skill, ability, or diligence in the performance of his or her duties.

(Mar. 3, 1901, ch. 854, § 869e; July 11, 1947, 61 Stat. 313, ch. 230; Dec. 27, 1967, 81 Stat. 737, Pub. L. 90-226, title VI, § 604; May 21, 1994, D.C. Law 10-119, § 2(n), 41 DCR 1639; June 11, 2013, D.C. Law 19-317, § 201(t), 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (c) and for "not more than $5,000" in (d).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 201(t) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Chapter 18. General Offenses.

§ 22-1801. "Writing" and "paper" defined.

CASE NOTES

Applied in Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

§ 22-1803. Attempts to commit crime.

Whoever shall attempt to commit any crime, which attempt is not otherwise made punishable by chapter 19 of An Act to establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1321), shall be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 180 days, or both. Except, whoever shall attempt to commit a crime of violence as defined in § 23-1331 shall be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 5 years, or both.

(Mar. 3, 1901, 31 Stat. 1337, ch. 854, § 906; Aug. 20, 1994, D.C. Law 10-151, § 105(a), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(y), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801, § 22-3231, § 22-3232, and § 22-4001.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted the first occurrence of "not more than the amount set forth in § 22-3571.01" for "not exceeding $1,000" and the second occurrence of "not more than the amount set forth in § 22-3571.01" for "not exceeding $5,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(y) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Dangerous weapon.
Robbery.
Possession of prohibited weapon, sufficiency of evidence.
Threats.

Dangerous weapon.

Vacatur of a conviction for attempted possession of a prohibited weapon, in violation of D.C. Code §§ 22-1803 and 22-4514(b), was appropriate because the evidence was insufficient to support a finding that pepper spray was a dangerous weapon within the meaning of attempted possession of a prohibited weapon, under D.C. Code §§ 22-1803 and 22-4514(b). Jones v. United States, 67 A.3d 547, 2013 D.C. App. LEXIS 284 (2013).

Robbery.

Evidence was sufficient to support defendant's conviction for attempted robbery under D.C. Code §§ 22-2802 and 22-1803 because the victim testified that defendant walked into her bedroom, high on PCP, demanded money, and pulled out a gun. During the ensuing fight, defendant threw the victim against the wall and flipped her mattress while looking for money; these actions established each element of attempted robbery. Fortune v. United States, 59 A.3d 949, 2013 D.C. App. LEXIS 11 (2013).

Possession of prohibited weapon, sufficiency of evidence.

Although remand for a retrial was necessary for the trial court to consider whether defendant's right to confrontation was violated, the evidence was sufficient to support defendant's conviction for attempted possession of a prohibited weapon, in violation of D.C. Code §§ 22-1803 and 22-4514(b), because (1) a police officer testified that defendant's step-sibling, while in an excited state, told the officer that defendant came to the step-sibling, while holding a knife, and told the step-sibling that the step-sibling looked like the step-sibling had been selling drugs and needed a haircut, and that defendant then tried to cut the step-sibling's hair; (2) the officer testified as to the officer's observations that both defendant and the step-sibling had visible injuries and bloodstained clothes and that there was a trail of blood inside the duplex unit which defendant and the step-sibling shared; and (3) there was photographic evidence. Best v. United States, 66 A.3d 1013, 2013 D.C. App. LEXIS 276 (2013).

Threats.

Sufficient evidence supported defendant's attempted threats to do bodily harm conviction where defendant repeatedly spoke the words "I could kill you" while he was choking the victim with both hands around her neck; the State did not have to show that defendant intended to utter the words as a threat. Carrell v. United States, 80 A.3d 163, 2013 D.C. App. LEXIS 785 (2013).

Applied in Dauphine v. United States, 73 A.3d 1029, 2013 D.C. App. LEXIS 527 (2013).

§ 22-1804a. Penalty for felony after at least 2 prior felony convictions.

(a)(1) If a person is convicted in the District of Columbia of a felony, having previously been convicted of 2 prior felonies not committed on the same occasion, the court may, in lieu of any sentence authorized, impose such greater term of imprisonment as it deems necessary, up to, and including, 30 years.

(2) If a person is convicted in the District of Columbia of a crime of violence as defined by § 22-4501, having previously been convicted of 2 prior crimes of violence not committed on the same occasion, the court, in lieu of the term of imprisonment authorized, shall impose a term of imprisonment of not less than 15 years and may impose such greater term of imprisonment as it deems necessary up to, and including, life without possibility of release.

(3) For purposes of imprisonment following revocation of release authorized by § 24-403.01, the third or subsequent felony committed by a person who had previously been convicted of 2 prior felonies not committed on the same occasion and the third or subsequent crime of violence committed by a person who had previously been convicted of 2 prior crimes of violence not committed on the same occasion are Class A felonies.

(b) For the purposes of this section:

(1) A person shall be considered as having been convicted of a felony if the person was convicted of a felony by a court of the District of Columbia, any state, or the United States or its territories; and

(2) A person shall be considered as having been convicted of a crime of violence if the person was convicted of a crime of violence as defined by § 22-4501, by a court of the District of Columbia, any state, or the United States or its territories.

(c)(1) A person shall be considered as having been convicted of 2 felonies if the person has been convicted of a felony twice before on separate occasions by courts of the District of Columbia, any state, or the United States or its territories.

(2) A person shall be considered as having been convicted of 2 crimes of violence if the person has twice before on separate occasions been convicted of

a crime of violence as defined by § 22-4501, by courts of the District of Columbia, any states, or the United States or its territories.

(d) No conviction or plea of guilty with respect to which a person has been pardoned shall be taken into account in applying this section.

(e) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, ch. 854, § 907a; July 29, 1970, 84 Stat. 599, Pub. L. 91-358, title II, § 201(b); May 21, 1994, D.C. Law 10-119, § 2(b), 41 DCR 1639; Oct. 7, 1994, D.C. Law 10-194, § 2, 41 DCR 4283; May 16, 1995, D.C. Law 10-255, § 15, 41 DCR 5193; June 3, 1997, D.C. Law 11-275, § 2, 44 DCR 1408; June 8, 2001, D.C. Law 13-302, § 4(h), 47 DCR 7249; Dec. 10, 2009, D.C. Law 18-88, § 208, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 303(t), 60 DCR 2064.)

Section references. — This section is referenced in § 16-710 and § 24-403.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 added (e).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 303(t) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1803.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1805. Persons advising, inciting, or conniving at criminal offense to be charged as principals.

CASE NOTES

Applied in Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012).

§ 22-1805a. Conspiracy to commit crime.

(a)(1) If 2 or more persons conspire either to commit a criminal offense or to defraud the District of Columbia or any court or agency thereof in any manner or for any purpose, each shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both, except that if the object of the conspiracy is a criminal offense punishable by less than 5 years, the maximum penalty for the conspiracy shall not exceed the maximum penalty provided for that offense.

(2) If 2 or more persons conspire to commit a crime of violence as defined in § 23-1331(4), each shall be fined not more than the amount set forth in § 22-3571.01 nor the maximum fine prescribed for the offense, the commission of which was the object of the conspiracy, whichever is less, or imprisoned not more than 15 years nor the maximum imprisonment prescribed for the offense, the commission of which was the object of the conspiracy, whichever is less, or both.

(b) No person may be convicted of conspiracy unless an overt act is alleged and proved to have been committed by 1 of the conspirators pursuant to the conspiracy and to effect its purpose.

(c) When the object of a conspiracy contrived within the District of Columbia

is to engage in conduct in a jurisdiction outside the District of Columbia which would constitute a criminal offense under an act of Congress applicable exclusively to the District of Columbia if performed therein, the conspiracy is a violation of this section if:

(1) Such conduct would also constitute a crime under the laws of the other jurisdiction if performed therein; or

(2) Such conduct would constitute a criminal offense under an act of Congress exclusively applicable to the District of Columbia even if performed outside the District of Columbia.

(d) A conspiracy contrived in another jurisdiction to engage in conduct within the District of Columbia which would constitute a criminal offense under an act of Congress exclusively applicable to the District of Columbia if performed within the District of Columbia is a violation of this section when an overt act pursuant to the conspiracy is committed within the District of Columbia. Under such circumstances, it is immaterial and no defense to a prosecution for conspiracy that the conduct which is the object of the conspiracy would not constitute a crime under the laws of the other jurisdiction.

(Mar. 3, 1901, ch. 854. § 908A; July 29, 1970, 84 Stat. 599, Pub. L. 91-358, title II, § 202; Dec. 10, 2009, D.C. Law 18-88, § 209, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 201(z), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801 and § 22-4001.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (a)(1) and for "not more than $3000" in (a)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(z) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1803.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Analysis

Evidence.
Nature and elements of criminal conspiracy.
Presumptions and burden of proof.
Weight and sufficiency of evidence.

Evidence.

Defendants' convictions of conspiracy to murder were reversed because it was a close case and they were denied a brief continuance to call a witness who could have rebutted a key element of a government witness's testimony—his assertion that he and defendants met up to arm themselves for the victim's murder. Gilliam v. United States, 80 A.3d 192, 2013 D.C. App. LEXIS 784 (2013).

Nature and elements of criminal conspiracy.

When a prosecution for conspiracy is predicated on an agreement made in another jurisdiction, the government must prove that an overt act pursuant to the conspiracy was committed within the District of Columbia in order to prove the offense. Gilliam v. United States, 80 A.3d 192, 2013 D.C. App. LEXIS 784 (2013).

Presumptions and burden of proof.

Trial court's jury instructions were improper as they allowed the jury to convict defendants of conspiracy to murder based solely on a finding that they entered into an agreement in Maryland and that they committed an overt act in Maryland, without finding any conspiratorial agreement made or joined, or overt act committed, within the District of Columbia. Gilliam v. United States, 80 A.3d 192, 2013 D.C. App. LEXIS 784 (2013).

Weight and sufficiency of evidence.

Defendant's convictions of obstruction of justice and conspiracy to obstruct justice were

reversed, as no rational juror could have found beyond a reasonable doubt that defendant, acting through and conspiring with his father and his uncle, had the specific intent to threaten his friend to prevent him from giving truthful testimony at defendant's murder trial. Harrison v. United States, 60 A.3d 1155, 2012 D.C. App. LEXIS 636 (2012).

Beating death was not outside the scope of the common design of defendant and his accomplice to rob and "whoop" the victim because defendant and the accomplice had not carried away the proceeds when the fatal blows were inflicted; the death of the victim was a natural and probable consequence of a robbery committed in a brutal fashion, and it was entirely foreseeable that death could result from a "whoopin" inflicted by two men, even if they were not armed. In re D.N., 65 A.3d 88, 2013 D.C. App. LEXIS 248 (2013).

Evidence was sufficient to support defendants' convictions for conspiracy to commit robbery because one defendant made statements which indicated an intent to rob the victim, both defendants were armed when they met with the victim when a third person sought to buy marijuana from the victim, both defendants pulled out their guns, one defendant said to give it up, and one defendant shot the victim while the other defendant shot a person who was with the victim. Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

§ 22-1807. Punishment for offenses not covered by provisions of Code.

Whoever shall be convicted of any criminal offense not covered by the provisions of any section of this Code, or of any general law of the United States not locally inapplicable in the District of Columbia, shall be punished by a fine not more than the amount set forth in § 22-3571.01 or by imprisonment for not more than 5 years, or both.

(Mar. 3, 1901, 31 Stat. 1337, ch. 854, § 910; June 11, 2013, D.C. Law 19-317, § 201(aa), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not exceeding $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 201(aa) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1803.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-1810. Threatening to kidnap or injure a person or damage his property.

Whoever threatens within the District of Columbia to kidnap any person or to injure the person of another or physically damage the property of any person or of another person, in whole or in part, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 20 years, or both.

(June 19, 1968, 82 Stat. 238, Pub. L. 90-351, title X, § 1502; June 11, 2013, D.C. Law 19-317, § 223, 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 223

of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-1803.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Evidence.
Instructions.
Merger.
Nature and elements of crime.

Evidence.

Reasonable person in position of neighbor, whose house caught fire on day before alleged threat was made, would not believe that juvenile, who paraded back and forth on sidewalk in front of neighbor, performing to laughing audience and singing modified rap song about setting block and her house on fire, meant to damage her house, and thus, evidence was insufficient to support delinquency adjudication based on felony threats to damage property; neighbor and juvenile were friends with no history of animosity, much less violence, and there was no basis for reasonable inference that juvenile was involved in fire at neighbor's house. In re S.W., 45 A.3d 151, 2012 D.C. App. LEXIS 285 (2012).

Instructions.

Because the three instances of threatening behavior were separated by relatively short periods of time and changes in location, the perpetrators maintained the same motivation of concealing their wrongful treatment of the victim and intimidating him into silence, and there was no significant break between the three threat incidents, the trial judge did not err in failing to, sua sponte, give a special unanimity instruction to the jury. Guevara v. United States, 77 A.3d 412, 2013 D.C. App. LEXIS 657 (2013), writ of certiorari denied by 188 L. Ed. 2d 358, 2014 U.S. LEXIS 1408, 82 U.S.L.W. 3494 (U.S. 2014).

Merger.

Defendant's two felony threat convictions under D.C. Code § 22-1810 merged, as defendant's threat to two victims was one act directed at an undifferentiated group of victims. Kittle v. United States, 65 A.3d 1144, 2013 D.C. App. LEXIS 264 (2013).

Nature and elements of crime.

"Person" for purposes of this section is limited to natural persons and excluded property owned by the District of Columbia. Therefore, defendant could not be convicted for threatening to destroy property, specifically the window of a police car, owned by the District of Columbia. Ruffin v. United States, 76 A.3d 845, 2013 D.C. App. LEXIS 594 (2013).

CHAPTER 18A. HUMAN TRAFFICKING.

Sec.
22-1837. Penalties.

§ 22-1837. Penalties.

(a)(1) Except as provided in paragraph (2) of this subsection, whoever violates § 22-1832, § 22-1833, or § 22-1834 shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 20 years, or both.

(2) Whoever violates sections § 22-1832, § 22-1833, or § 22-1834 when the victim is held or provides services for more than 180 days shall be fined not more than 1½ times the maximum fine authorized for the designated act, imprisoned for not more than 1½ times the maximum term authorized for the designated act, or both.

(b) Whoever violates § 22-1835 shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 5 years, or both.

(c) Whoever violates § 22-1836 shall be fined or imprisoned up to the maximum fine or term of imprisonment for a violation of each referenced section.

(d) Whoever attempts to violate § 22-1832, § 22-1833, § 22-1834, § 22-1835 or § 22-1836 shall be fined not more than ½ the maximum fine otherwise authorized for the offense, imprisoned for not more than ½ the maximum term otherwise authorized for the offense, or both.

(e) No person shall be sentenced consecutively for violations of §§ 22-1833 and 22-1834 for an offense arising out of the same incident.

(Oct. 23, 2010, D.C. Law 18-239, § 107, 57 DCR 5405; June 11, 2013, D.C. Law 19-317, § 224, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $200,000" in (a)(1), and for "not more than $5,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 224 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Chapter 19. Incest.

Sec.
22-1901. Definition and penalty.

§ 22-1901. Definition and penalty.

If any person in the District related to another person within and not including the fourth degree of consanguinity, computed according to the rules of the Roman or civil law, shall marry or cohabit with or have sexual intercourse with such other so-related person, knowing him or her to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and, on conviction thereof, shall be punished by imprisonment for not more than 12 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1332, ch. 854, § 875; June 11, 2013, D.C. Law 19-317, § 303(r), 60 DCR 2064.)

Section references. — This section is referenced in § 22-4001 and § 23-113.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(r) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality

Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Chapter 19A. Interfering with Reports of Crime.

§ 22-1931. Obstructing, preventing, or interfering with reports to or requests for assistance from law enforcement agencies, medical providers, or child welfare agencies.

(a) It shall be unlawful for a person to knowingly disconnect, damage, disable, temporarily or permanently remove, or use physical force or intimidation to block access to any telephone, radio, computer, or other electronic communication device with a purpose to obstruct, prevent, or interfere with:

(1) The report of any criminal offense to any law enforcement agency;

(2) The report of any bodily injury or property damage to any law enforcement agency;

(3) A request for ambulance or emergency medical assistance to any governmental agency, or any hospital, doctor, or other medical service provider, or

(4) The report of any act of child abuse or neglect to a law enforcement or child welfare agency.

(b) A person who violates subsection (a) of this section shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both.

(Apr. 24, 2007, D.C. Law 16-306, § 107, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 206(f), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 206(f) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 20. KIDNAPPING.

Sec.
22-2001. Definition and penalty; conspiracy.

§ 22-2001. Definition and penalty; conspiracy.

Whoever shall be guilty of, or of aiding or abetting in, seizing, confining, inveigling, enticing, decoying, kidnapping, abducting, concealing, or carrying away any individual by any means whatsoever, and holding or detaining, or with the intent to hold or detain, such individual for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, shall, upon conviction thereof, be punished by imprisonment for not more than 30 years. For purposes of imprisonment following revocation of release authorized by § 24-403.01, the offense defined by this section is a Class A felony. This section shall be held to have been violated if either the seizing, confining, inveigling, enticing, decoying, kidnapping, abducting, concealing, carrying away, holding, or detaining occurs in the District of Columbia. If 2 or more individuals enter into any agreement or conspiracy to do any act or acts which would constitute a violation of the provisions of this section, and 1 or more of such individuals do any act to effect the object of such agreement or conspiracy, each such individual shall be deemed to have violated the provisions of this section. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 812; Feb. 18, 1933, 47 Stat. 858, ch. 103; Nov. 8, 1965, 79 Stat. 1307, Pub. L. 89-347, § 3; June 8, 2001, D.C. Law 13-302, § 4(g), 47 DCR 7249; June 11, 2013, D.C. Law 19-317, § 303(i), 60 DCR 2064.)

Section references. — This section is referenced in § 11-502, § 22-3152, § 22-4001, § 23-546, and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation.

For temporary (90 days) amendment of this section, see § 303(i) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Admissibility of evidence.

Probative value of evidence of defendant's heroin addiction to place what happened at the crime scene in an understandable context was substantially outweighed by the prejudicial effect its admission would have for defendant, such that the evidence was inadmissible for this purpose, in prosecution for burglary, robbery, kidnapping, and felony murder; jury did not need the drug-addiction evidence to derive a coherent story of the evidence, in that even without the evidence of drug addiction, the evidence suggested that the crimes likely were the acts of a desperate person, and it did not appear that the drug-addiction evidence would be indispensable to the jury's understanding of the charged offenses. U.S. v. Morton, 2012 WL 3242844 (2012).

Remand was required for trial court to conduct anew its discretionary balancing of the

probative value of the evidence of defendant's heroin addiction as corroborative of inferences that pointed to defendant as the perpetrator against its prejudicial effect, in prosecution for burglary, robbery, kidnapping, and felony murder; defendant's addiction had probative value as corroborative of defendant's identity as the perpetrator, while evidence of his addiction might be reflective of his character and might suggest that he had criminal propensities, the relevance of the evidence was logically independent of those possibilities, and a fuller assessment by trial court of probative value of the evidence could affect its balancing of probative value against prejudicial effect. U.S. v. Morton, 2012 WL 3242844 (2012).

CHAPTER 21. MURDER; MANSLAUGHTER.

§ 22-2101. Murder in the first degree — Purposeful killing; killing while perpetrating certain crimes.

Section references. — This section is referenced in § 7-627, § 7-651.12, § 11-502, § 22-2103, § 22-3152, § 22-4001, § 23-113, § 23-546, § 24-112, § 24-211.07, and § 24-251.02.

CASE NOTES

ANALYSIS

Admissibility of evidence.

— Confessions, admissibility of evidence.

Murder defendant's confession, though obtained after police failed to scrupulously honor his assertion of his right to remain silent during police interview, was nevertheless voluntary, such that confession was admissible for the limited purpose of impeachment, as there was no hint of physical coercion of defendant by police, or that police raised their voices to defendant, police gave defendant sodas and allowed him to smoke, he received several breaks to use the bathroom and was allowed to meet with his grandmother, and given defendant's extensive experience with criminal and juvenile justice systems, he clearly understood the Miranda rights that were given to him. Pettus v. United States, 37 A.3d 213, 2012 D.C. App. LEXIS 22 (2012).

Constitutional rights of accused.

As the court clerk responded to a jury's note without alerting defendant or his counsel, and as the clerk's response did not clear up the jury's confusion over whether defendant attempted an armed robbery and thus committed felony murder in killing the victim, defendant was deprived of his right under U.S. Const. amend. V and VI to his own presence and that of his counsel at all critical stages of the prosecution. Euceda v. United States, 66 A.3d 994, 2013 D.C. App. LEXIS 279 (2013).

Felony-murder.

— Robbery, felony-murder.

Beating death was not outside the scope of the common design of defendant and his accomplice to rob and "whoop" the victim because defendant and the accomplice had not carried away the proceeds when the fatal blows were inflicted; the death of the victim was a natural and probable consequence of a robbery committed in a brutal fashion, and it was entirely foreseeable that death could result from a "whoopin" inflicted by two men, even if they were not armed. In re D.N., 65 A.3d 88, 2013 D.C. App. LEXIS 248 (2013).

Trial court did not misapprehend the elements of felony murder as applied to accomplices because further findings that the fatal beating occurred "in furtherance of" the common plan to rob the victim were not required; because defendant made no request for a special finding whether the killing occurred in furtherance of the robbery, the trial court appropriately focused on his contention that he was not involved in the robbery. In re D.N., 65 A.3d 88, 2013 D.C. App. LEXIS 248 (2013).

Instructions.

— Aiding and abetting, instructions.

There was no reasonable possibility that the jury applied an arguably ambiguous general instruction on aiding and abetting given in prosecution of defendant and co-defendant for first-degree premeditated murder so as to improperly exempt the government from its burden of proving that they each premeditated and deliberated over killing the victim, and, thus, reversal of defendant's murder conviction was not warranted based on the instruction; trial court, in instructing jury on elements of the offense, took care to state that the government had to prove that defendants caused the death of victim that they did so with a specific intent to kill victim, and that they did so after premeditation and deliberation, and in context, the thrust of the instruction was that an accomplice might be guilty without having performed all the physical actions necessary to complete the charged offense, not that an accomplice might be guilty without having the requisite mental state for that offense. Ewing v. United States, 36 A.3d 839, 2012 D.C. App. LEXIS 23 (2012), writ of certiorari denied by 133 S. Ct. 1807, 185 L. Ed. 2d 826, 2013 U.S. LEXIS 3092, 81 U.S.L.W. 3579 (U.S. 2013).

— Conspiracy, instructions.

Trial court's jury instructions were improper as they allowed the jury to convict defendants of conspiracy to murder based solely on a finding that they entered into an agreement in Maryland and that they committed an overt act in Maryland, without finding any conspiratorial agreement made or joined, or overt act committed, within the District of Columbia. Gilliam v. United States, 80 A.3d 192, 2013 D.C. App. LEXIS 784 (2013).

— Deliberation and premeditation, instructions.

Trial court's re-instruction to jury during its deliberations in prosecution for first-degree premeditated murder that premeditation and deliberation could occur "during the beating," but that jury had to find that they "occurred before the killing," in response to jury's note asking whether the premeditation and deliberation necessary for the offense could have occurred during, rather than before, the altercation that resulted in the homicide, adequately dispelled jury's difficulties with concrete accuracy, and, thus, was appropriate; jury evinced no confusion about need to base its findings on the evidence, nor any inclination to indulge in undue speculation, and trial court's prior instructions had made jury well aware of the necessity for proof beyond a reasonable doubt of each element of the offense, including premeditation and deliberation. Ewing v. United States, 36 A.3d 839, 2012 D.C. App. LEXIS 23 (2012), writ of certiorari denied by 133 S. Ct. 1807, 185 L. Ed. 2d 826, 2013 U.S. LEXIS 3092, 81 U.S.L.W. 3579 (U.S. 2013).

Merger of offenses.

Convictions for the underlying felonies of attempted robbery merged with convictions for felony murder. Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

Weight and sufficiency of evidence.

— Conspiracy, weight and sufficiency of evidence.

Defendants' convictions of conspiracy to murder were reversed because it was a close case and they were denied a brief continuance to call a witness who could have rebutted a key element of a government witness's testimony—his assertion that he and defendants met up to arm themselves for the victim's murder. Gilliam v. United States, 80 A.3d 192, 2013 D.C. App. LEXIS 784 (2013).

— Felony-murder, weight and sufficiency of evidence.

Evidence was sufficient to support defendants' convictions for felony murder because one defendant made statements which indicated an intent to rob the victim, both defendants were armed when they met with the victim when a third person sought to buy marijuana from the victim, both defendants pulled out their guns, one defendant said to give it up, and one defendant shot the victim while the other defendant shot a person who was with the victim. Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

— In general.

Kentucky Supreme Court's initial assessment of evidence of defendant's extreme emotional disturbance (EED) and reliance in resolving appeal on case that involved retroactive application of "unexpected and indefensible" judicial revision of Kentucky murder statute was irrelevant in habeas proceeding, as it did not form sole basis for that court's denial of

defendant's sufficiency of the evidence claim. Parker v. Matthews, 132 S. Ct. 2148, 183 L. Ed. 2d 32, 2012 U.S. LEXIS 4306 (2012).

§ 22-2103. Murder in the second degree.

Section references. — This section is referenced in § 22-3152, § 23-113, § 23-546, § 24-112, and § 24-251.02.

CASE NOTES

ANALYSIS

Instructions.
—Lesser-included offenses, instructions.
Weight and sufficiency of evidence.
—Degree of murder, weight and sufficiency of evidence.

Instructions.

— Lesser-included offenses, instructions.

Trial court's erroneous jury instruction on aiding and abetting did not affect defendants' substantial rights and therefore was not plain error requiring reversal of convictions for unarmed second-degree murder as lesser-included offenses of first-degree murder, even though defendants were convicted as aiders and abettors and prosecutor emphasized that theory of liability in closing argument, where government produced evidence from eyewitnesses that defendants actively and personally participated throughout the vicious beating and kicking that led to victim's death, and from this, the jury could have inferred that defendants acted, if not with a specific intent to kill, at the very least with malice. Ingram v. United States, 40 A.3d 887, 2012 D.C. App. LEXIS 137 (2012), writ of certiorari denied by 133 S. Ct. 1483, 185 L. Ed. 2d 383, 2013 U.S. LEXIS 1748, 81 U.S.L.W. 3471 (U.S. 2013).

Weight and sufficiency of evidence.

— Degree of murder, weight and sufficiency of evidence.

Evidence was sufficient to support conviction for second-degree murder while armed; defendant had recently been served with complaint for divorce from victim, resulting in altercation in which defendant threatened victim, defendant's brother testified that, on the evening of the murder, defendant left the house at about midnight with a nine-millimeter handgun, which, according to expert testimony, was the kind of weapon used in the killing, and less than a half hour after, several eyewitnesses observed a man matching defendant's description shoot the victim as she sat in the driver's seat of her vehicle. Williams v. U.S., 2012 WL 2159301 (2012).

§ 22-2104. Penalty for murder in first and second degrees.

(a) The punishment for murder in the first degree shall be not less than 30 years nor more than life imprisonment without release, except that the court may impose a prison sentence in excess of 60 years only in accordance with § 22-2104.01 or § 24-403.01(b-2). The prosecution shall notify the defendant in writing at least 30 days prior to trial that it intends to seek a sentence of life imprisonment without release as provided in § 22-2104.01; provided that, no person who was less than 18 years of age at the time the murder was committed shall be sentenced to life imprisonment without release.

(b) Notwithstanding any other provision of law, a person convicted of murder in the first degree shall not be released from prison prior to the expiration of 30 years from the date of the commencement of the sentence.

(c) Whoever is guilty of murder in the second degree shall be sentenced to a period of incarceration of not more than life, except that the court may impose a prison sentence in excess of 40 years only in accordance with § 24-403.01(b-2).

(d) For purposes of imprisonment following revocation of release authorized

by § 24-403.01(b)(7), murder in the first degree and murder in the second degree are Class A felonies.

(e) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 801; Jan. 30, 1925, 43 Stat. 798, ch. 115, § 1; Mar. 22, 1962, 76 Stat. 46, Pub. L. 87-423, § 1; Feb. 26, 1981, D.C. Law 3-113, § 2, 27 DCR 5624; Sept. 26, 1992, D.C. Law 9-153, § 2(b), (c), 39 DCR 3868; May 23, 1995, D.C. Law 10-256, § 2(a), 42 DCR 20; June 8, 2001, D.C. Law 13-302, § 4(d), 47 DCR 7249; June 11, 2013, D.C. Law 19-317, § 303(a), 60 DCR 2064.)

Section references. — This section is referenced in § 22-2104.01, § 22-4502, § 24-112, and § 24-221.06.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 added (e).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 303(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Analysis

Juvenile and youthful offenders.
Life sentence.
Sentence held not excessive.

Juvenile and youthful offenders.

Defendant's mandatory 30-year sentence under former D.C. Code Ann. § 22-2404(a) (1981 Ed.), now codified at D.C. Code § 22-2104, for a first-degree murder he committed as a juvenile did not violate the Eighth Amendment, U.S. Const. amend. VIII as defendant did not fit within the categorical exceptions of Roper v. Simmons, 543 U.S. 551 (2005), Graham v. Florida, 130 S. Ct. 2011 (2010), and Miller v. Alabama, 132 S. Ct. 2455 (2012), as he was not sentenced to death, he committed homicide, and his sentence did not guarantee that he would die in prison. James v. United States, 59 A.3d 1233, 2013 D.C. App. LEXIS 21 (2013).

Mandatory nature of defendant's sentence under D.C. Code Ann. § 22-2404(a) (1981 Ed.), now codified at D.C. Code § 21-2104, for a first-degree murder he committed as a juvenile did not violate the Eighth Amendment, U.S. Const. amend. VIII, as the mitigating qualities of defendant's youth were taken into account and limited the minimum sentence to 30 years' for offenders under the age of 18 at the time of their offense, as opposed to the life imprisonment without opportunity for release that was available against adults. James v. United States, 59 A.3d 1233, 2013 D.C. App. LEXIS 21 (2013).

Life sentence.

Appellant established that he was prejudiced by a plain Apprendi error because reasonable minds could have disagreed about whether the murder was especially heinous, atrocious, or cruel; the pre-meditated murder was committed in revenge against the perpetrator of an earlier crime, and the crime was not clearly within the class of murders discussed by the Committee on the Judiciary when the Council of the District of Columbia enacted its life without possibility of parole statute. Long v. United States, 79 A.3d 310, 2013 D.C. App. LEXIS 684 (2013).

Public reputation of judicial proceedings would suffer if appellant's sentence was allowed to stand because the jury had not made findings coextensive with any of the three aggravating factors on which the trial could based the imposition of life without possibility of parole. Long v. United States, 79 A.3d 310, 2013 D.C. App. LEXIS 684 (2013).

Sentence held not excessive.

Defendant's mandatory 30-year sentence for a first-degree murder he committed as a juvenile was not grossly disproportionate for Eighth Amendment, U.S. Const. amend. VIII, pur-

poses where defendant kidnapped a 12-year-old boy, drove to an apartment, retrieved a gun, drove to the woods, marched the boy into the middle of the woods, and shot him twice, once in the leg and once in the back of the head in an execution style murder. James v. United States, 59 A.3d 1233, 2013 D.C. App. LEXIS 21 (2013).

§ 22-2105. Penalty for manslaughter.

Whoever is guilty of manslaughter shall be sentenced to a period of imprisonment not exceeding 30 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 802; May 23, 1995, D.C. Law 10-256, § 2(c), 42 DCR 20; June 11, 2013, D.C. Law 19-317, § 303(b), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3152, § 24-112, and § 50-2206.51.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2104.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2106. Murder of law enforcement officer.

(a) Whoever, with deliberate and premeditated malice, and with knowledge or reason to know that the victim is a law enforcement officer or public safety employee, kills any law enforcement officer or public safety employee engaged in, or on account of, the performance of such officer's or employee's official duties, is guilty of murder of a law enforcement officer or public safety employee, and shall be sentenced to life without the possibility of release. It shall not be a defense to this charge that the victim was acting unlawfully by seizing or attempting to seize the defendant or another person.

(b) For the purposes of subsection (a) of this section, the term:

(1) "Law enforcement officer" means:

(A) A sworn member of the Metropolitan Police Department;

(B) A sworn member of the District of Columbia Protective Services;

(C) The Director, deputy directors, and officers of the District of Columbia Department of Corrections;

(D) Any probation, parole, supervised release, community supervision, or pretrial services officer of the Court Services and Offender Supervision Agency or The Pretrial Services Agency;

(E) Metro Transit police officers; and

(F) Any federal, state, county, or municipal officer performing functions comparable to those performed by the officers described in subparagraphs (A), (C), (D), (E), and (F) of this paragraph, including but not limited to state, county, or municipal police officers, sheriffs, correctional officers, parole officers, and probation and pretrial service officers.

(2) "Public safety employee" means:

(A) A District of Columbia firefighter, emergency medical technician/

paramedic, emergency medical technician/intermediate paramedic, or emergency medical technician; and

(B) Any federal, state, county, or municipal officer performing functions comparable to those performed by the District of Columbia employees described in subparagraph (A) of this paragraph.

(c) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 802a, as added May 23, 1995, D.C. Law 10-256, § 2(d), 42 DCR 20; Oct. 17, 2002, D.C. Law 14-194, § 154, 49 DCR 5306; June 11, 2013, D.C. Law 19-317, § 303(c), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3152, § 23-113, § 24-112, and § 24-403.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 added (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2104.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2107. Penalty for solicitation of murder or other crime of violence.

(a) Whoever is guilty of soliciting a murder, whether or not such murder occurs, shall be sentenced to a period of imprisonment not exceeding 20 years, a fine not more than the amount set forth in § 22-3571.01, or both.

(b) Whoever is guilty of soliciting a crime of violence as defined by § 23-1331(4), whether or not such crime occurs, shall be sentenced to a period of imprisonment not exceeding 10 years, a fine of not more than the amount set forth in § 22-3571.01, or both.

(Mar. 3, 1901, ch. 854, § 802b, as added Apr. 24, 2007, D.C. Law 16-306, § 209, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 201(b), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "of $20,000" in (a) and for "of $10,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2104.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 22. OBSCENITY.

Sec.

§ 22-2201. Certain obscene activities and conduct declared unlawful; definitions; penalties; affirmative defenses; exception.

(a)(1) It shall be unlawful in the District of Columbia for a person knowingly:

(A) To sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide any obscene, indecent, or filthy writing, picture, sound recording, or other article or representation;

(B) To present, direct, act in, or otherwise participate in the preparation or presentation of, any obscene, indecent, or filthy play, dance, motion picture, or other performance;

(C) To pose for, model for, print, record, compose, edit, write, publish, or otherwise participate in preparing for publication, exhibition, or sale, any obscene, indecent, or filthy writing, picture, sound recording, or other article or representation;

(D) To sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute or provide any article, thing, or device which is intended for or represented as being for indecent or immoral use;

(E) To create, buy, procure, or possess any matter described in the preceding subparagraphs of this paragraph with intent to disseminate such matter in violation of this subsection;

(F) To advertise or otherwise promote the sale of any matter described in the preceding subparagraphs of this paragraph; or

(G) To advertise or otherwise promote the sale of material represented or held out by such person to be obscene.

(2)(A) For purposes of subparagraph (E) of paragraph (1) of this subsection, the creation, purchase, procurement, or possession of a mold, engraved plate, or other embodiment of obscenity specially adapted for reproducing multiple copies or the possession of more than 3 copies, of obscene, indecent, or filthy material shall be prima facie evidence of an intent to disseminate such material in violation of this subsection.

(B) For purposes of paragraph (1) of this subsection, the term "knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of, the character and content of any article, thing, device, performance, or representation described in paragraph (1) of this subsection which is reasonably susceptible of examination.

(3) When any person is convicted of a violation of this subsection, the court in its judgment of conviction may, in addition to the penalty prescribed, order the confiscation and disposal of any materials described in paragraph (1) of this subsection, which were named in the charge against such person and which were found in the possession or under the control of such person at the time of such person's arrest.

(b)(1) It shall be unlawful in the District of Columbia for any person knowingly:

(A) To sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide to a minor:

(i) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body, which depicts nudity, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or

(ii) Any book, magazine, or other printed matter however reproduced or sound recording, which depicts nudity, sexual conduct, or sado-masochistic abuse or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or

(B) To exhibit to a minor, or to sell or provide to a minor an admission ticket to, or pass to, or to admit a minor to, premises whereon there is exhibited, a motion picture, show, or other presentation which, in whole or in part, depicts nudity, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors.

(2) For purposes of paragraph (1) of this subsection:

(A) The term "minor" means any person under the age of 17 years.

(B) The term "nudity" includes the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(C) The term "sexual conduct" includes acts of sodomy, masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

(D) The term "sexual excitement" includes the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(E) The term "sado-masochistic abuse" includes flagellation or torture by or upon a person clad in undergarments or a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

(F) The term "knowingly" means having a general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both of:

(i) The character and content of any material described in paragraph (1) of this subsection which is reasonably susceptible of examination by the defendant; and

(ii) The age of the minor.

(c) It shall be an affirmative defense to a charge of violating subsection (a) or (b) of this section that the dissemination was to institutions or individuals having scientific, educational, or other special justification for possession of such material.

(d) Nothing in this section shall apply to a licensee under the Communications Act of 1934 (47 U.S.C. § 151 et seq.) while engaged in activities regulated pursuant to such Act.

(e) A person convicted of violating subsection (a) or (b) of this section shall for the 1st offense be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both. A person convicted of a 2nd or subsequent offense under subsection (a) or (b) of this section shall be fined not less than $1,000 and not more than the amount set forth in § 22-3571.01 or imprisoned not less than 6 months or more than 3 years, or both.

(Mar. 3, 1901, 31 Stat. 1332, ch. 854, § 872; Dec. 27, 1967, 81 Stat. 738, Pub. L. 90-226, title VI, § 606; May 21, 1994, D.C. Law 10-119, § 2(p), 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 105(m), 41 DCR 2608; June 11, 2013, D.C. Law 19-317, § 201(u), 60 DCR 2064.)

Section references. — This section is referenced in § 22-4001 and § 22-4151.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317, in (e), substituted the first occurrence of "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" and substituted "and not more than the amount set forth in § 22-3571.01" for "nor more than $5,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(u) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes.

Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Punishment and sanctions.

In sentencing defendant for possession and transportation of child pornography, the district court provided sufficient explanation for the imposition of a 40-year term of supervised release as part of the sentence; court explained that conduct underlying defendant's offenses was "of grave concern" because there was very aggressive sexual activity in the images defendant possessed when compared to other images that the court had seen in other cases, and court noted that defendant claimed he had sexual contact with a six-year-old, and noted his apparent willingness to take his conduct beyond looking at images, and court explained that rehabilitative treatment was not a cure and was something that defendant would have to deal with for the rest of his life. United States v. Accardi, 669 F.3d 340, 2012 U.S. App. LEXIS 4017 (C.A.D.C. 2012), writ of certiorari denied by 133 S. Ct. 198, 184 L. Ed. 2d 101, 2012 U.S. LEXIS 6310 (U.S. 2012).

LAW REVIEWS AND JOURNAL COMMENTARIES

The Library Internet Filter: On The Computer Or In The Child?, 11 Regent U.L. Rev. 425.

CHAPTER 23. PANHANDLING.

Sec.
22-2304. Penalties.

§ 22-2301. Definitions.

LAW REVIEWS AND JOURNAL COMMENTARIES

Rejecting the Parasite and Motivating the Laggard-A Constitutional Analysis of the District of Columbia's Aggressive Panhandling Statute. Katherine S. Broderick, 2 D.C.L.Rev. 180 (1994).

§ 22-2304. Penalties.

(a) Any person convicted of violating any provision of § 22-2302 shall be fined not more than the amount set forth in § 22-3571.01 or be imprisoned not more than 90 days or both.

(b) In lieu of or in addition to the penalty provided in subsection (a) of this section, a person convicted of violating any provision of § 22-2302 may be required to perform community service as provided in § 16-712.

(Nov. 17, 1993, D.C. Law 10-54, § 5, 40 DCR 5450; June 11, 2013, D.C. Law 19-317, § 225, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $300" in (a).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 225 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 24. PERJURY; RELATED OFFENSES.

Sec.
22-2402. Perjury.
22-2403. Subornation of perjury.
22-2404. False swearing.
22-2405. False statements.

§ 22-2402. Perjury.

(a) A person commits the offense of perjury if:

(1) Having taken an oath or affirmation before a competent tribunal, officer, or person, in a case in which the law authorized such oath or affirmation to be administered, that he or she will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by that person subscribed is true, wilfully and contrary to an oath or affirmation states

or subscribes any material matter which he or she does not believe to be true and which in fact is not true;

(2) As a notary public or other officer authorized to take proof of certification, wilfully certifies falsely that an instrument was acknowledged by any party thereto or wilfully certifies falsely as to another material matter in an acknowledgement; or

(3) In any declaration, certificate, verification, or statement made under penalty of perjury in the form specified in § 16-5306 or 28 U.S.C. § 1746(2), the person willfully states or subscribes as true any material matter that the person does not believe to be true and that in fact is not true.

(b) Any person convicted of perjury shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 401, 29 DCR 3976; July 23, 2010, D.C. Law 18-191, § 3, 57 DCR 3400; June 11, 2013, D.C. Law 19-317, § 205(x), 60 DCR 2064.)

Section references. — This section is referenced in § 2-1831.13, § 4-804, § 7-2502.05, § 7-2502.11, and § 7-2504.09.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(x) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Weight and sufficiency of evidence.

Second defendant's perjury convictions were supported by evidence that, inter alia, during a recorded jail call, second defendant asked first defendant which thing he was calling from, but at trial second defendant testified that first defendant did not have a cell phone in prison. Smith v. United States, 68 A.3d 729, 2013 D.C. App. LEXIS 282 (2013), writ of certiorari denied by 134 S. Ct. 451, 187 L. Ed. 2d 302, 2013 U.S. LEXIS 7347, 82 U.S.L.W. 3215 (U.S. 2013), writ of certiorari denied by 134 S. Ct. 708, 187 L. Ed. 2d 570, 2013 U.S. LEXIS 8624, 82 U.S.L.W. 3329 (U.S. 2013).

§ 22-2403. Subornation of perjury.

A person commits the offense of subornation of perjury if that person wilfully procures another to commit perjury. Any person convicted of subornation of perjury shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 402, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(y), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(y) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2404. False swearing.

(a) A person commits the offense of false swearing if under oath or affirmation he or she wilfully makes a false statement, in writing, that is in fact material and the statement is one which is required by law to be sworn or affirmed before a notary public or other person authorized to administer oaths.

(b) Any person convicted of false swearing shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 3 years, or both.

(Dec. 1, 1982, D.C. 4-164, § 403, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(z), 60 DCR 2064.)

Section references. — This section is referenced in § 2-1831.13.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $2,500" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(z) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2405. False statements.

(a) A person commits the offense of making false statements if that person wilfully makes a false statement that is in fact material, in writing, directly or indirectly, to any instrumentality of the District of Columbia government, under circumstances in which the statement could reasonably be expected to be relied upon as true; provided, that the writing indicates that the making of a false statement is punishable by criminal penalties or if that person makes an affirmation by signing an entity filing or other document under Title 29 of the District of Columbia Official Code, knowing that the facts stated in the filing are not true in any material respect or if that person makes an affirmation by signing a declaration under § 1-1061.13, knowing that the facts stated in the filing are not true in any material respect;

(b) Any person convicted of making false statements shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both. A violation of this section shall be prosecuted by the Attorney General for the District of Columbia or one of the Attorney General's assistants.

(Dec. 1, 1982, D.C. Law 4-164, § 404, 29 DCR 3976; Aug. 20, 1994, D.C. Law 10-151, § 113(e), 41 DCR 2608; July 2, 2011, D.C. Law 18-378, § 3(e), 58 DCR

1720; June 5, 2012, D.C. Law 19-137, § 121(b), 59 DCR 2542; June 11, 2013, D.C. Law 19-317, § 205(aa), 60 DCR 2064.)

Section references. — This section is referenced in § 4-251.03, § 4-1501.09, § 42-1102, § 47-3504, and § 47-3506.

Effect of amendments.

D.C. Law 19-137, in subsec. (a), substituted "or if that person makes an affirmation by signing a declaration under § 1-1061.13, knowing that the facts stated in the filing are not true in any material respect" for "respect".

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(aa) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-137. — Law 19-137, the "Comprehensive Military and Overseas Voters Accommodation Amendment Act of 2012", was introduced in Council and assigned Bill No. 19-356, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on February 7, 2012, and March 6, 2012, respectively. Signed by the Mayor on March 27, 2012, it was assigned Act No. 19-334 and transmitted to both Houses of Congress for its review. D.C. Law 19-137 became effective on June 5, 2012.

Legislative history of Law 19-317. — See note to § 22-2402.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Chapter 25. Possession of Implements of Crime.

Sec.
22-2501. Possession of implements of crime; penalty.

§ 22-2501. Possession of implements of crime; penalty.

No person shall have in his or her possession in the District any instrument, tool, or implement for picking locks or pockets, with the intent to use such instrument, tool, or implement to commit a crime. Whoever violates this section shall be imprisoned for not more than 180 days and may be fined not more than and, in addition, may be fined not more than the amount set forth in § 22-3571.01, unless the violation occurs after he or she has been convicted in the District of a violation of this section or of a felony, either in the District or another jurisdiction, in which case he or she shall be imprisoned for not less than one year nor more than 5 years and, in addition, may be fined not more than the amount set forth in § 22-3571.01.

(June 29, 1953, 67 Stat. 97, ch. 159, § 209(a); Aug. 5, 1981, D.C. Law 4-29, § 604(a)(2), 28 DCR 3081; Nov. 17, 1981, D.C. Law 4-52, § 3(g), 28 DCR 4348; May 21, 1994, D.C. Law 10-119, § 9(c), 41 DCR 1639; Aug. 20, 1994, D.C. Law 10-151, § 110(b), 41 DCR 2608; June 3, 1997, D.C. Law 11-275, § 11, 44 DCR 1408; June 11, 2013, D.C. Law 19-317, §§ 202(b), 305, 60 DCR 2064.)

Section references. — This section is referenced in § 24-403 and § 24-403.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000"; and added "and, in addition, may be fined not more than the amount set forth in § 22-3571.01" at the end of the last sentence.

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 202(b) and 305 of the Criminal

Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 25A. PRESENCE IN A MOTOR VEHICLE CONTAINING A FIREARM.

Sec.
22-2511. Presence in a motor vehicle containing a firearm.

§ 22-2511. Presence in a motor vehicle containing a firearm.

(a) It is unlawful for a person to be voluntarily in a motor vehicle if that person knows that a firearm is in the vehicle, unless the firearm is being lawfully carried or lawfully transported.

(b) It shall be an affirmative defense to this offense, which the defendant must prove by a preponderance of the evidence, that the defendant, upon learning that a firearm was in the vehicle, had the specific intent to immediately leave the vehicle, but did not have a reasonable opportunity under the circumstances to do so.

(c)(1) Except as provided in paragraph (2) of this subsection, a person who violates this section shall be fined not more than and, in addition, may be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 5 years, or both.

(2) If the violation of this section occurs after a person has been convicted in the District of Columbia of a violation of § 22-4504(a), or of a felony, either in the District of Columbia or another jurisdiction, the person shall be fined not more than and, in addition, may be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 10 years, or both.

(3) No person shall be sentenced consecutively for this offense and any other firearms offense arising out of the same incident. Any conviction under this section and any conviction for carrying or possessing the same firearm on the same occasion shall be considered as one conviction for purposes of any application of repeat offender sentencing provisions.

(Dec. 10, 2009, D.C. Law 18-88, § 101, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 213(a), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (c)(1), and for "$10,000" in (c)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 213(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT

1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — This section was held unconstitutional in Conley v. United States, 2013 D.C. App. LEXIS 633, — A.3d — (Sept. 26, 2013). In its analysis, the District of Columbia Court of Appeals held that D.C. Code § 22-2511 (2012) violates due process for two reasons. First, the essence of the offense is the defendant's voluntary presence in a vehicle after he learns that it contains a firearm. Yet instead of requiring the government to prove that the defendant's continued presence was voluntary, § 22-2511 requires the defendant to shoulder the burden of proving, as an affirmative defense, that his presence in the vehicle was involuntary. This shifting of the burden of persuasion with respect to a critical component of the crime is incompatible with due process. But § 22-2511 offends due process in another way. It is incompatible with due process to convict a person of a crime based on the failure to take a legally required action — a crime of omission — if he had no reason to believe he had a legal duty to act, or even that his failure to act was blameworthy. The fundamental constitutional vice of § 22-2511 is that it criminalizes entirely innocent behavior — merely remaining in the vicinity of a firearm in a vehicle, which the average citizen would not suppose to be wrongful (let alone felonious) — without requiring the government to prove that the defendant had notice of any legal duty to behave otherwise. This is a defect that cannot be cured by interpreting the statutory language. Accordingly, the District of Columbia Court of Appeals held that § 22-2511 is unconstitutional on its face.

Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Constitutionality.

D.C. Code § 22-2511 violates due process and is facially unconstitutional because (1) it imposes the burden on the defendant to prove, as an affirmative defense, that his presence in a vehicle that he knew contained a firearm was involuntary; and (2) it criminalizes behavior that the average citizen would not suppose was wrongful, without requiring the government to prove the defendant had notice of a legal duty to behave otherwise. Conley v. United States, 79 A.3d 270, 2013 D.C. App. LEXIS 633 (2013).

Because an indictment under this section "fails _____ to charge an offense" within the meaning of D.C. Super. Ct. R. Crim. P. 12(b)(2), because the Constitution precludes the prosecution, defendant's failure to challenge the constitutionality of D.C. Code § 22-2511 at trial did not preclude him from raising that challenge on appeal. Conley v. United States, 79 A.3d 270, 2013 D.C. App. LEXIS 633 (2013).

CHAPTER 26. PRISON MISCONDUCT.

Subchapter I. Escape

Subchapter I. Escape.

§ 22-2601. Escape from institution or officer.

(a) No person shall escape or attempt to escape from:

(1) Any penal or correctional institution or facility in which that person is confined pursuant to an order issued by a court of the District of Columbia;

(2) The lawful custody of an officer or employee of the District of Columbia or of the United States: or

(3) An institution or facility, whether located in the District of Columbia or elsewhere, in which a person committed to the Department of Youth Rehabilitation Services is placed.

(b) Any person who violates subsection (a) of this section shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both, said sentence to begin, if the person is an escaped prisoner, upon the expiration of the original sentence or disposition for the offense for which he or she was confined, committed, or in custody at the time of his or her escape.

(July 15, 1932, 47 Stat. 698, ch. 492, § 8; June 6, 1940, 54 Stat. 243, ch. 254, § 6(a); July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 157(b); Aug. 20, 1994, D.C. Law 10-151, § 203, 41 DCR 2608; June 3, 2011, D.C. Law 18-377, § 9, 58 DCR 1174; June 11, 2013, D.C. Law 19-317, § 226, 60 DCR 2064; June 19, 2013, D.C. Law 19-320, § 105, 60 DCR 3390.)

Section references. — This section is referenced in § 24-112 and § 24-407.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (b).

The 2013 amendment by D.C. Law 19-320, in (a)(1), substituted "penal or correctional institution" for "penal institution" and deleted "judge, or commissioner" following "court".

Emergency legislation.

For temporary amendment of (a)(1), see § 105 of the Omnibus Criminal Code Amendments Emergency Amendment Act of 2012 (D.C. Act 19-599, January 14, 2013, 60 DCR 1017).

For temporary (90 days) amendment of this section, see § 105 of the Omnibus Criminal Code Amendment Congressional Review Emergency Act of 2013 (D.C. Act 20-44, April 1, 2013, 60 DCR 5381, 20 DCSTAT 1281).

For temporary (90 days) amendment of this section, see § 226 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Legislative history of Law 19-320. — Law 19-320, the "Omnibus Criminal Code Amendments Act of 2012," was introduced in Council and assigned Bill No. 19-645. The Bill was adopted on first and second readings on Dec. 4, 2012, and Dec. 18, 2012, respectively. Signed by the Mayor on Feb. 11, 2013, it was assigned Act No. 19-677 and transmitted to Congress for its review. D.C. Law 19-320 became effective on June 19, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Construction and application.

Halfway house is a penal institution within the meaning of D.C. Code § 22-2601. Tillman v. United States, 68 A.3d 742, 2013 D.C. App. LEXIS 286 (2013).

Applied in Spriggs v. United States, 52 A.3d 878, 2012 D.C. App. LEXIS 478 (2012).

Subchapter III. Introduction of Contraband into Penal Institution.

§ 22-2603.03. Penalties.

(a) A person convicted of violating this subchapter with regard to Class A contraband shall be imprisoned for not more than 10 years, fined not more than the amount set forth in § 22-3571.01, or both.

(b) A person convicted of violating this subchapter with regard to Class B contraband shall be imprisoned for not more than 2 years, fined not more than the amount set forth in § 22-3571.01, or both.

(c) A person convicted of violating § 22-2603.02(c) shall be imprisoned for not more than 1 year, fined not more than the amount set forth in § 22-3571.01, or both.

(d) Any term of imprisonment imposed on an inmate or prisoner pursuant to this section shall be:

(1) Consecutive to the term of imprisonment being served at the time this offense was committed; or

(2) If the inmate was confined pending trial or sentencing, consecutive to any term of imprisonment imposed in the case in which the inmate was being detained at the time this offense was committed.

(e) The violation of this subchapter with regard to Class C contraband shall be an administrative penalty prescribed by the Department of Corrections or the Department of Youth Rehabilitation Services.

(Dec. 15, 1941, 55 Stat. 800, ch. 572, § 1; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(30); redesignated § 4, Dec. 10, 2009, D.C. Law 18-88, § 210, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 227, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (a), for "not more than $2,000" in (b), and for "not more than $1,000" in (c).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 227 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2601.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 27. PROSTITUTION; PANDERING.

Subchapter I. General

Sec.

Subchapter I. General.

§ 22-2701. Engaging in prostitution or soliciting for prostitution.

(a) It is unlawful for any person to engage in prostitution or to solicit for prostitution.

(b)(1) Except as provided in paragraph (2) of this subsection, a person convicted of prostitution or soliciting for prostitution shall be:

(A) Fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 90 days, or both, for the first offense; and

(B) Fined not more than the amount set forth in § 22-3571.01, imprisoned not more than 180 days, or both, for the second offense.

(2) A person convicted of prostitution or soliciting for prostitution who has 2 or more prior convictions for prostitution or soliciting for prostitution, not committed on the same occasion, shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 2 years, or both.

(c) For the purposes of this section, a person shall be considered as having 2 or more prior convictions for prostitution or soliciting for prostitution if he or she has been convicted on at least 2 occasions of violations of:

(1) This section;

(2) A statute in one or more other jurisdictions prohibiting prostitution or soliciting for prostitution; or

(3) Conduct that would constitute a violation of this section if committed in the District of Columbia.

(Aug. 15, 1935, 49 Stat. 651, ch. 546, § 1; June 9, 1948, 62 Stat. 346, ch. 428, title I, § 102; June 29, 1953, 67 Stat. 93, ch. 159, § 202(b); Dec. 10, 1981, D.C. Law 4-57, § 3, 28 DCR 4652; Nov. 21, 1985, D.C. Law 6-62, § 2, 32 DCR 4581; Dec. 1, 1987, D.C. Law 7-44, § 2, 34 DCR 5310; May 24, 1996, D.C. Law 11-130, § 3(a), 43 DCR 1570; Apr. 24, 2007, D.C. Law 16-306,§ 211(a), 53 DCR 8610; Dec. 10, 2009, D.C. Law 18-88, § 211, 56 DCR 7413; Apr. 20, 2012, D.C. Law 19-120, § 202, 58 DCR 11235; June 11, 2013, D.C. Law 19-317, § 228, 60 DCR 2064.)

Section references. — This section is referenced in § 22-1831, § 22-2701.01, § 22-2703, § 22-2723, § 22-2731, § 22-4001, § 42-3101, and § 47-2844.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500"

in (b)(1)(A), for "not more than $1,000" in (b)(1)(B), and for "not more than $4,000" in (b)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 228 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Sentence and punishment.
Weight and sufficiency of evidence.

Sentence and punishment.

Penalties for solicitation of prostitution remained identical to the penalties for engaging in prostitution in the 2009 statute. Moten v. United States, 81 A.3d 1274, 2013 D.C. App. LEXIS 388 (2013).

Weight and sufficiency of evidence.

Evidence was sufficient to support defendant's conviction of solicitation as it established that the officer informed defendant she was "looking for dates" and defendant told her that he was "horny," which alleviated any concern that defendant was unaware of the illicit nature of their arrangement; defendant offered shelter and marijuana in exchange for sex. Moten v. United States, 81 A.3d 1274, 2013 D.C. App. LEXIS 388 (2013).

§ 22-2704. Abducting or enticing child from his or her home for purposes of prostitution; harboring such child.

(a) It is unlawful for any person, for purposes of prostitution, to:

(1) Persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual abode, or from the custody and control of the child's parents or guardian; or

(2) Secrete or harbor any child so persuaded, enticed, or abducted from his or her home or usual abode, or from the custody and control of the child's parents or guardian.

(b) A person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years, or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 813; May 21, 1994, D.C. Law 10-119, § 2(q), 41 DCR 1639; Apr. 24, 2007, D.C. Law 16-306, § 213, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 201(g), 60 DCR 2064.)

Section references. — This section is referenced in § 14-311, § 22-1831, § 22-2701.01, § 22-2731, § 22-3020.51, § 22-4001, § 23-113, and § 42-3101.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $20,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(g) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2705. Pandering; inducing or compelling an individual to engage in prostitution.

(a) It is unlawful for any person, within the District of Columbia to:

(1) Place or cause, induce, entice, procure, or compel the placing of any individual in the charge or custody of any other person, or in a house of prostitution, with intent that such individual shall engage in prostitution;

(2) Cause, compel, induce, entice, or procure or attempt to cause, compel, induce, entice, or procure any individual:

(A) To reside with any other person for the purpose of prostitution;

(B) To reside or continue to reside in a house of prostitution; or

(C) To engage in prostitution; or

(3) Take or detain an individual against the individual's will, with intent to compel such individual by force, threats, menace, or duress to marry the abductor or to marry any other person.

(b) It is unlawful for any parent, guardian, or other person having legal custody of the person of an individual, to consent to the individual's being taken, detained, or used by any person, for the purpose of prostitution or a sexual act or sexual contact.

(c)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) or (b) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years, or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(2) A person who violates subsection (a) or (b) of this section when the individual so placed, caused, compelled, induced, enticed, procured, taken, detained, or used or attempted to be so placed, caused, compelled, induced, enticed, procured, taken, detained, or used is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(June 25, 1910, 36 Stat. 833; Jan. 3, 1941, 54 Stat. 1225, ch. 936, § 1; May 21, 1994, D.C. Law 10-119, § 12(a), 41 DCR 1639; May 17, 1996, D.C. Law 11-119, § 3, 43 DCR 528; Apr. 24, 2007, D.C. Law 16-306, § 214(a), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 229(a), 60 DCR 2064.)

Section references. — This section is referenced in § 14-311, § 22-1831, § 22-2701.01, § 22-2731, § 23-113, and § 42-3101.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (c)(1), and for "not more than $20,000" in (c)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 229(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2706. Compelling an individual to live life of prostitution against his or her will.

(a) It is unlawful for any person, within the District of Columbia, by threats or duress, to detain any individual against such individual's will, for the purpose of prostitution or a sexual act or sexual contact, or to compel any individual against such individual's will, to reside with him or her or with any other person for the purposes of prostitution or a sexual act or sexual contact.

(b)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 15 years or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(2) A person who violates subsection (a) of the section when the individual so detained or compelled is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(June 25, 1910, 36 Stat. 833, ch. 404, § 2; Jan. 3, 1941, 54 Stat. 1225, ch. 936, § 2; May 21, 1994, D.C. Law 10-119, § 12(b), 41 DCR 1639; Apr. 24, 2007, D.C. Law 16-306, § 214(b), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 229(b), 60 DCR 2064.)

Section references. — This section is referenced in § 14-311 and § 23-113.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $15,000" in (b)(1), and for "not more than $20,000" in (b)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 229(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2707. Procuring; receiving money or other valuable thing for arranging assignation.

(a) It is unlawful for any person, within the District of Columbia, to receive any money or other valuable thing for or on account of arranging for or causing any individual to engage in prostitution or a sexual act or contact.

(b)(1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(2) A person who violates subsection (a) of this section when the individual so arranged for or caused to engage in prostitution or a sexual act or contact is under the age of 18 years shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 20 years or by a fine of not more than the amount set forth in § 22-3571.01, or both.

(June 25, 1910, 36 Stat. 833, ch. 404, § 3; Jan. 3, 1941, 54 Stat. 1226, ch. 936,

§ 3; May 21, 1994, D.C. Law 10-119, § 12(c), 41 DCR 1639; Apr. 24, 2007, D.C. Law 16-306, § 214(c), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 229(c), 60 DCR 2064.)

Effect of amendments.
The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (b)(1), and for "not more than $20,000" in (b)(2).

Emergency legislation.
For temporary (90 days) amendment of this section, see § 229(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2708. Causing spouse or domestic partner to live in prostitution.

Any person who by force, fraud, intimidation, or threats, places or leaves, or procures any other person or persons to place or leave, a spouse or domestic partner in a house of prostitution, or to lead a life of prostitution, shall be guilty of a felony, and upon conviction thereof shall be imprisoned not less than one year nor more than 10 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(June 25, 1910, 36 Stat. 833, ch. 404, § 4; May 21, 1994, D.C. Law 10-119,§ 12(d), 41 DCR 1639; June 3, 1997, D.C. Law 11-275, § 6, 44 DCR 1408; Apr. 24, 2007, D.C. Law 16-306, § 214(d), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 306(a), 60 DCR 2064.)

Section references. — This section is referenced in § 14-311 and § 23-113.

Effect of amendments.
The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation.
For temporary (90 days) amendment of this section, see § 306(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2709. Detaining an individual in disorderly house for debt there contracted.

Any person or persons who attempt to detain any individual in a disorderly house or house of prostitution because of any debt or debts such individual has contracted, or is said to have contracted, while living in said house of prostitution or disorderly house shall be guilty of a felony, and on conviction thereof be imprisoned for a term not less than one year nor more than 5 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(June 25, 1910, 36 Stat. 833, ch. 404, § 5; May 21, 1994, D.C. Law 10-

119,§ 12(e), 41 DCR 1639; June 3, 1997, D.C. Law 11-275, § 6, 44 DCR 1408; June 11, 2013, D.C. Law 19-317, § 306(b), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 306(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2710. Procuring for house of prostitution.

Any person who, within the District of Columbia, shall pay or receive any money or other valuable thing for or on account of the procuring for, or placing in, a house of prostitution, for purposes of sexual intercourse, prostitution, debauchery, or other immoral act, any individual, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years and by a fine of not more than the amount set forth in § 22-3571.01.

(June 25, 1910, 36 Stat. 833, ch. 404, § 6; as added Jan. 3, 1941, 54 Stat. 1226, ch. 936, § 4; May 21, 1994, D.C. Law 10-119, § 13(a), 41 DCR 1639; June 11, 2013, D.C. Law 19-317, § 229(d), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 229(d) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2711. Procuring for third persons.

Any person who, within the District of Columbia, shall receive any money or other valuable thing for or on account of procuring and placing in the charge or custody of another person for sexual intercourse, prostitution, debauchery, or other immoral purposes any individual shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years and by a fine of not more than the amount set forth in § 22-3571.01.

(June 25, 1910, 36 Stat. 833, ch. 404, § 7; as added Jan. 3, 1941, 54 Stat. 1226, ch. 936, § 4; May 21, 1994, D.C. Law 10-119, § 13(b), 41 DCR 1639; June 11, 2013, D.C. Law 19-317, § 229(e), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 229(e) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2712. Operating house of prostitution.

Any person who, within the District of Columbia, knowingly, shall accept, receive, levy, or appropriate any money or other valuable thing, without consideration other than the furnishing of a place for prostitution or the servicing of a place for prostitution, from the proceeds or earnings of any individual engaged in prostitution shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not more than 5 years and by a fine of not more than the amount set forth in § 22-3571.01.

(June 25, 1910, 36 Stat. 833, ch. 404, § 8; as added Jan. 3, 1941, 54 Stat. 1226, ch. 936, § 4; May 21, 1994, D.C. Law 10-119, § 12(f), 41 DCR 1639; June 11, 2013, D.C. Law 19-317, § 229(f), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 229(f) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2716. Violation of injunction granted under § 22-2714.

In case of the violation of any injunction granted under the provisions of § 22-2714, the court, or, in vacation, a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an information, under oath, setting out the alleged facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may at any stage of the proceedings demand the production and oral examination of the witnesses. A party found guilty of contempt, under the provisions of this section, shall be punished by a fine of not less than $200 and not more than the amount set forth in § 22-3571.01 or by imprisonment in the District Jail not less than three nor more than 6 months or by both fine and imprisonment.

(Feb. 7, 1914, 38 Stat. 281, ch. 16, § 4; June 11, 2013, D.C. Law 19-317, § 230, 60 DCR 2064.)

Section references. — This section is referenced in § 22-2717.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "and not more than the amount set forth in § 22-3571.01" for "nor more than $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 230 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-2722. Keeping bawdy or disorderly houses.

Whoever is convicted of keeping a bawdy or disorderly house in the District shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 5 years, or both.

(July 16, 1912, 37 Stat. 192, ch. 235, § 1; Dec. 23, 1963, 77 Stat. 617, Pub. L. 88-241, § 11(a); Aug. 20, 1994, D.C. Law 10-151, § 107, 41 DCR 2608; Apr. 24, 2007, D.C. Law 16-306, § 215, 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 203(a)(2), 60 DCR 2064.)

Section references. — This section is referenced in § 22-1831, § 22-2701.01, § 22-2731, and § 22-4001.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 203(a)(2) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter II. Prostitution Free Zones.

§ 22-2731. Prostitution free zone; penalty.

(a) For the purposes of this section, the term:

(1) "Chief of Police" means the Chief of the Metropolitan Police Department.

(2) "Disperse" means to depart from the designated prostitution free zone and not to reassemble within the prostitution free zone with anyone from the group ordered to depart for the duration of the zone.

(3) "Known participant in prostitution or prostitution-related offenses" means a person who has been convicted in any court in any jurisdiction of any violation involving prostitution or prostitution-related offenses.

(4) "MPD" means the Metropolitan Police Department.

(5) "Prostitution" shall have the same meaning as provided in § 22-2701.01(3).

(6) "Prostitution free zone" means public space or public property in an area not to exceed a square of 1000 feet on each side that is established pursuant to subsection (b) of this section.

(7) "Prostitution-related offenses" means those crimes and offenses defined in § 22-2701, § 22-2703, and § 22-2723, § 22-2701.01, § 22-2704, §§ 22-2705 to 22-2712, §§ 22-2713 to 22-2720, and § 22-2722.

(b)(1) The Chief of Police may declare any public area a prostitution free zone for a period not to exceed 480 consecutive hours. The Chief of Police shall inform his commanders, the Mayor, and the Council of the declaration of a prostitution free zone.

(2) In determining whether to designate a prostitution free zone, the Chief of Police shall find the following:

(A) The occurrence of disproportionately high arrests for prostitution or prostitution-related offenses, and calls for police service because of prostitution or prostitution-related offenses in the proposed prostitution free zone within the preceding 6-month period;

(B) Objective evidence or verifiable information that shows that disproportionately high incidence of prostitution or prostitution-related offenses are occurring on public space or public property within the proposed prostitution free zone; and

(C) Any other verifiable information from which the Chief of Police may ascertain whether the public health or safety is endangered by prostitution or prostitution-related offenses in the prostitution free zone.

(c) Upon the designation of a prostitution free zone, the MPD shall mark each block within the prostitution free zone by using barriers, tape, signs, or police officers that post or announce the following information in the immediate area of, and borders around, the prostitution free zone:

(1) A statement that it is unlawful for a person to congregate in a group of 2 or more persons for the purposes of prostitution or prostitution-related offenses within the boundaries of a prostitution free zone, and fail to disperse after being instructed to disperse by a uniformed officer of the MPD, or a non-uniformed officer of the MPD upon display of MPD identification, who reasonably believes the person is congregating for the purpose of engaging in prostitution or prostitution-related offenses;

(2) The boundaries of the prostitution free zone;

(3) A statement of the effective dates of the prostitution free zone designation; and

(4) Any other additional information the Chief of Police provides.

(d)(1) It shall be unlawful for a person to congregate in a group of 2 or more persons on public space or public property within the perimeter of a prostitution free zone established pursuant to subsection (b) of this section and thereafter to fail to disperse after being instructed to disperse by a uniformed officer of the MPD, or a non-uniformed officer of the MPD upon display of MPD identification, who reasonably believes the person is congregating for the purpose of engaging in prostitution or prostitution-related offenses.

(2) In making a determination that a person is congregating in a prostitution free zone for the purpose of engaging in prostitution or prostitution-related offenses, the totality of the circumstances involved shall be considered. Among the circumstances which may be considered in determining whether such purpose is manifested are:

(A) The conduct of a person being observed, including that such person is behaving in a manner raising a reasonable belief that the person is engaging or is about to engage in prostitution or prostitution-related offenses, such as:

(i) Repeatedly beckoning to, stopping, attempting to stop, or attempting to engage passers-by in conversation for the purpose of prostitution;

(ii) Stopping or attempting to stop motor vehicles for the purpose of prostitution; or

(iii) Repeatedly interfering with the free passage of other persons for the purpose of prostitution;

(B) Information from a reliable source indicating that a person being observed routinely engages in or is currently engaging in prostitution or prostitution-related offenses within the prostitution free zone;

(C) Physical identification by an officer of the person as a member of a gang or association which engages in prostitution or prostitution-related offenses;

(D) Knowledge by an officer that the person is a known participant in prostitution or prostitution-related offenses; and

(E) Knowledge by an officer that any vehicle involved in the observed circumstances is registered to a known participant in prostitution or prostitution-related offenses, or a person for whom there is an outstanding arrest warrant for a crime involving prostitution or prostitution-related offenses.

(e) Any person who violates this section shall, upon conviction, be subject to a fine of not more than the amount set forth in § 22-3571.01, imprisonment for not more than 6 months, or both.

(f) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute all violations of this section.

(Apr. 24, 2007, D.C. Law 16-306, § 104, 53 DCR 8610; Dec. 10, 2009, D.C. Law 18-88, § 212, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 206(c), 60 DCR 2064.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $300" in (e).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 206(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2701.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 27A. PROTEST TARGETING A RESIDENCE.

Sec.
22-2752. Engaging in an unlawful protest targeting a residence.

§ 22-2752. Engaging in an unlawful protest targeting a residence.

(a)(1) It is unlawful for a person, as part of a group of 3 or more persons, to target a residence for purposes of a demonstration:

(A) Between 10:00 p.m. and 7:00 a.m.;

(B) While wearing a mask; or

(C) Without having provided the Metropolitan Police Department notification of the location and approximate time of the demonstration.

(2) The notification required by paragraph (1)(C) of this subsection shall

be provided in writing to the operational unit designated for such purpose by the Chief of Police not less than 2 hours before the demonstration begins. The Metropolitan Police Department shall post on its website the e-mail and facsimile number by which the operational unit may be notified 24 hours a day, and the address to which notification may be hand delivered, as an alternative, during business hours.

(b) A person who violates this section shall be guilty of a misdemeanor and, upon conviction, fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 90 days.

(May 26, 2011, D.C. Law 18-374, § 3, 58 DCR 715; June 11, 2013, D.C. Law 19-317, § 231, 60 DCR 2064.)

Section references. — This section is referenced in § 23-581.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 231 of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 28. ROBBERY.

§ 22-2801. Robbery.

Whoever by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, shall take from the person or immediate actual possession of another anything of value, is guilty of robbery, and any person convicted thereof shall suffer imprisonment for not less than 2 years nor more than 15 years. In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 810; Dec. 27, 1967, 81 Stat. 737, Pub. L. 90-226, title VI, § 603; June 11, 2013, D.C. Law 19-317, § 303(h), 60 DCR 2064.)

Section references. — This section is referenced in § 11-502, § 22-2802, § 23-546, and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added the last sentence.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 303(h) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law

19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Admissibility of evidence.

— Circumstances and condition of person robbed, admissibility of evidence.

Probative value of evidence of defendant's heroin addiction to place what happened at the crime scene in an understandable context was substantially outweighed by the prejudicial effect its admission would have for defendant, such that the evidence was inadmissible for this purpose, in prosecution for burglary, robbery, kidnapping, and felony murder; jury did not need the drug-addiction evidence to derive a coherent story of the evidence, in that even without the evidence of drug addiction, the evidence suggested that the crimes likely were the acts of a desperate person, and it did not appear that the drug-addiction evidence would be indispensable to the jury's understanding of the charged offenses. U.S. v. Morton, 2012 WL 3242844 (2012).

Remand was required for trial court to conduct anew its discretionary balancing of the probative value of the evidence of defendant's heroin addiction as corroborative of inferences that pointed to defendant as the perpetrator against its prejudicial effect, in prosecution for burglary, robbery, kidnapping, and felony murder; defendant's addiction had probative value as corroborative of defendant's identity as the perpetrator, while evidence of his addiction might be reflective of his character and might suggest that he had criminal propensities, the relevance of the evidence was logically independent of those possibilities, and a fuller assessment by trial court of probative value of the evidence could affect its balancing of probative value against prejudicial effect. U.S. v. Morton, 2012 WL 3242844 (2012).

— Expert testimony, admissibility of evidence.

Trial court's exclusion of robbery defendant's proffered expert testimony on eyewitness identification did not violate his constitutional right to present a defense, as defendant made an extensive presentation of his theory of misidentification through argument and a witness; witness corroborated defendant's argument of misidentification by stating that victim's book of checks and cell phone were given to her by two people other than defendant, defendant conducted ample cross-examination of victim on her ability to observe the face of her assailant, and defense counsel stated during closing argument that stranger identification was less reliable, and that victim did not have enough time to observe defendant and focused on gun instead. Patterson v. United States, 37 A.3d 230, 2012 D.C. App. LEXIS 64 (2012), amended by, opinion withdrawn in part by 56 A.3d 1152, 2012 D.C. App. LEXIS 502 (D.C. 2012).

Argument and conduct of counsel.

Prosecutor's unobjected-to comments during closing argument that robbery defendant's use of his girlfriend as a defense witness in an attempt to bolster his defense that victim had misidentified him as the perpetrator was a bunch of "malarkey" and "garbage," did not constitute plain error, as the arguments were made in the context of the overwhelming corroborative evidence and, in all likelihood, had very little effect on outcome of trial, and prosecutor was attempting to discredit the misidentification defense and reinforce victim's identification of defendant. Patterson v. United States, 37 A.3d 230, 2012 D.C. App. LEXIS 64 (2012), amended by, opinion withdrawn in part by 56 A.3d 1152, 2012 D.C. App. LEXIS 502 (D.C. 2012).

Conspiracy.

Beating death was not outside the scope of the common design of defendant and his accomplice to rob and "whoop" the victim because defendant and the accomplice had not carried away the proceeds when the fatal blows were inflicted; the death of the victim was a natural and probable consequence of a robbery committed in a brutal fashion, and it was entirely foreseeable that death could result from a "whoopin" inflicted by two men, even if they

were not armed. In re D.N., 65 A.3d 88, 2013 D.C. App. LEXIS 248 (2013).

In a case involving robbery, aggravated assault, assault with significant bodily injury, and assault with intent to rob, there was sufficient evidence from which the jury could have inferred an agreement to commit a robbery where a young boy inquired about what was in the victims' pockets, several participants were apparently loitering with a purpose in front of a hotel prior to the attack, and both appellant and another participant called for assistance from a gunman. Collins v. United States, 73 A.3d 974, 2013 D.C. App. LEXIS 499 (2013).

Counsel for accused.

— Adequacy of representation, counsel for accused.

Prosecutor, by recommending a 20-year sentence for defendant on his conviction for armed robbery and related weapons and other offenses, committed a grave and inexcusable breach of written plea agreement, pursuant to which prosecutor had agreed not to allocute for a sentence greater than ten years; while the prosecutor withdrew her request for a 20-year sentence, which occurred only after the judge brought the problem to counsel's attention), her subsequent allocution was anything but an emphatic retreat from the impropriety, and the demands of fairness required something better from the government than a blatant breach of the plea agreement followed by the prosecutor's implied dissatisfaction with that agreement during the course of her allocution. Clark v. U.S., 2012 WL 2159358 (2012).

Felony murder.

Trial court did not misapprehend the elements of felony murder as applied to accomplices because further findings that the fatal beating occurred "in furtherance of" the common plan to rob the victim were not required; because defendant made no request for a special finding whether the killing occurred in furtherance of the robbery, the trial court appropriately focused on his contention that he was not involved in the robbery. In re D.N., 65 A.3d 88, 2013 D.C. App. LEXIS 248 (2013).

Merger of offenses.

Defendant's two convictions for possession of a firearm during a crime of violence, under D.C. Code § 22-4504(b), did not merge with the underlying convictions for armed robbery, under D.C. Code §§ 22-2801 and 22-4502, and aggravated assault while armed, under D.C. Code §§ 22-404.01 and 22-4502 because the offenses required different elements of proof. The armed robbery and aggravated assault while armed offenses required proof that defendant was "armed with" or had "readily available" a dangerous weapon, which could, but need not, have been a firearm, while the possession of a firearm during a crime of violence offenses required proof of elements not required by the armed enhancement statute — that is, proof of "possession" of a "firearm." Snowden v. United States, 52 A.3d 858, 2012 D.C. App. LEXIS 475 (2012).

§ 22-2802. Attempt to commit robbery.

Whoever attempts to commit robbery, as defined in § 22-2801, by an overt act, shall be imprisoned for not more than 3 years or be fined not more than the amount set forth in § 22-3571.01, or both.

(Mar. 3, 1901, 31 Stat. 1322, ch. 854, § 811; June 11, 2013, D.C. Law 19-317, § 201(e), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $500".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 201(e) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2801.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Merger of offenses.
Weight and sufficiency of evidence.

Merger of offenses.

Convictions for the underlying felonies of attempted robbery merged with convictions for felony murder. Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

Weight and sufficiency of evidence.

Evidence was sufficient to support defendant's conviction for attempted robbery under D.C. Code § 22-2802 and 22-1803 because the victim testified that defendant walked into her bedroom, high on PCP, demanded money, and pulled out a gun. During the ensuing fight, defendant threw the victim against the wall and flipped her mattress while looking for money; these actions established each element of attempted robbery. Fortune v. United States, 59 A.3d 949, 2013 D.C. App. LEXIS 11 (2013).

Evidence was sufficient to support defendants' convictions for robbery because one defendant made statements which indicated an intent to rob the victim, both defendants were armed when they met with the victim when a third person sought to buy marijuana from the victim, both defendants pulled out their guns, one defendant said to give it up, and one defendant shot the victim while the other defendant shot a person who was with the victim. Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

§ 22-2803. Carjacking.

(a)(1) A person commits the offense of carjacking if, by any means, that person knowingly or recklessly by force or violence, whether against resistance or by sudden or stealthy seizure or snatching, or by putting in fear, or attempts to do so, shall take from another person immediate actual possession of a person's motor vehicle.

(2) A person convicted of carjacking shall be fined not more than the amount set forth in § 22-3571.01 and be imprisoned for a mandatory-minimum term of not less than 7 years and a maximum term of not more than 21 years, or both.

(b)(1) A person commits the offense of armed carjacking if that person, while armed with or having readily available any pistol or other firearm (or imitation thereof) or other dangerous or deadly weapon (including a sawed-off shotgun, shotgun, machine gun, rifle, dirk, bowie knife, butcher knife, switch-blade knife, razor, blackjack, billy, or metallic or other false knuckles), commits or attempts to commit the offense of carjacking.

(2) A person convicted of armed carjacking shall be fined not more than the amount set forth in § 22-3571.01 and be imprisoned for a mandatory-minimum term of not less than 15 years and a maximum term of not more than 40 years, or both. However, the court may impose a prison sentence in excess of 30 years only in accordance with § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), armed carjacking is a Class A felony.

(c) Notwithstanding any other provision of law, a person convicted of carjacking shall not be released from prison prior to the expiration of 7 years from the date of the commencement of the sentence, and a person convicted of armed carjacking shall not be released from prison prior to the expiration of 15 years from the date of the commencement of the sentence.

(Mar. 3, 1901, ch. 854, § 811a, as added May 8, 1993, D.C. Law 9-270, § 2, 39

DCR 9223; Oct. 2, 1993, D.C. Law 10-26, § 2, 40 DCR 3416; June 8, 2001, D.C. Law 13-302, § 4(f), 47 DCR 7249; June 19, 2001, D.C. Law 13-313,§ 21(a), 48 DCR 1873; June 11, 2013, D.C. Law 19-317, § 201(f), 60 DCR 2064.)

Section references. — This section is referenced in § 7-2508.01, § 24-112, § 24-221.06, and § 24-467.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (a)(2) and for "not more than $10,000" in (b)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 201(f) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-2801.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 30. SEXUAL ABUSE.

Subchapter II. Sex Offenses

Subchapter II-A. Reporting Requirements in Child Sexual Abuse Offense Cases

Subchapter II. Sex Offenses.

§ 22-3002. First degree sexual abuse.

(a) A person shall be imprisoned for any term of years or for life, and in addition, may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

(1) By using force against that other person;

(2) By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;

(3) After rendering that other person unconscious; or

(4) After administering to that other person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant,

or other similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

(b) The court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

(May 23, 1995, D.C. Law 10-257, § 201, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(a), 44 DCR 1408; June 8, 2001, D.C. Law 13-302, § 7(a), 47 DCR 7249; June 11, 2013, D.C. Law 19-317, § 232(a), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3007, § 22-3010, § 22-4001, § 22-4502, § 23-113, § 24-112, and § 24-403.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $250,000" in (a).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Analysis

Ineffective assistance of counsel.
Weight and sufficiency of evidence.
—Testimony or statement of accused, weight and sufficiency of evidence.

Ineffective assistance of counsel.

Defense counsel's failure to present medical expert to serve as rebuttal evidence against government's witnesses, and their ability to recall due to their state of mind as alleged crack cocaine users, did not prejudice defendant, and thus could not amount to ineffective assistance in prosecution for sexual abuse; defendant admitted to having sexual encounters with both women and his DNA was matched to semen found on each one, evidence presented at trial included testimony and medical reports that both victim had fresh injuries after their sexual encounters with defendant, and jury was aware of victims' long history of drug use. Thomas v. U.S., 2012 WL 1207422 (2012).

Weight and sufficiency of evidence.

— Testimony or statement of accused, weight and sufficiency of evidence.

Evidence supported defendant's conviction for attempted first degree sexual abuse based on the victim's testimony that the victim heard the victim's attacker unzip the attacker's pants, saw the attacker's torso exposed, felt the attacker pull down the victim's underwear, and felt the attacker pull the victim's body from behind toward the attacker's body while the victim was on the victim's hands and knees trying to escape. Gee v. United States, 54 A.3d 1249, 2012 D.C. App. LEXIS 503 (2012), writ of certiorari denied by 133 S. Ct. 2843, 186 L. Ed. 2d 897, 2013 U.S. LEXIS 4658, 81 U.S.L.W. 3690 (U.S. 2013).

Applied in Legette v. United States, 69 A.3d 373, 2013 D.C. App. LEXIS 375 (2013).

§ 22-3003. Second degree sexual abuse.

A person shall be imprisoned for not more than 20 years and may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes another person to engage in or submit to a sexual act in the following manner:

(1) By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

(2) Where the person knows or has reason to know that the other person is:

(A) Incapable of appraising the nature of the conduct;

(B) Incapable of declining participation in that sexual act; or

(C) Incapable of communicating unwillingness to engage in that sexual act.

(May 23, 1995, D.C. Law 10-257, § 202, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(b), 44 DCR 1408; June 11, 2013, D.C. Law 19-317, § 232(b), 60 DCR 2064.)

Section references. — This section is referenced in § 22-4001, § 23-113, § 24-112, and § 24-403.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $200,000" in the introductory paragraph.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3004. Third degree sexual abuse.

A person shall be imprisoned for not more than 10 years and may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes sexual contact with or by another person in the following manner:

(1) By using force against that other person;

(2) By threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping;

(3) After rendering that person unconscious; or

(4) After administering to that person by force or threat of force, or without the knowledge or permission of that other person, a drug, intoxicant, or similar substance that substantially impairs the ability of that other person to appraise or control his or her conduct.

(May 23, 1995, D.C. Law 10-257, § 203, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(c), 44 DCR 1408; June 11, 2013, D.C. Law 19-317, § 232(c), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $100,000" in the introductory paragraph.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3005. Fourth degree sexual abuse.

A person shall be imprisoned for not more than 5 years and, in addition, may be fined not more than the amount set forth in § 22-3571.01, if that person engages in or causes sexual contact with or by another person in the following manner:

(1) By threatening or placing that other person in reasonable fear (other than by threatening or placing that other person in reasonable fear that any person will be subjected to death, bodily injury, or kidnapping); or

(2) Where the person knows or has reason to know that the other person is:

(A) Incapable of appraising the nature of the conduct;

(B) Incapable of declining participation in that sexual contact; or

(C) Incapable of communicating unwillingness to engage in that sexual contact.

(May 23, 1995, D.C. Law 10-257, § 204, 42 DCR 53; June 3, 1997, D.C. Law 11-275, § 13(d), 44 DCR 1408; June 11, 2013, D.C. Law 19-317, § 232(d), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $50,000" in the introductory paragraph.

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(d) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Prior offenses.

Trial court erred by admitting evidence of defendant's conviction in Virginia for sexual assault because defendant's conduct in the Virginia incident was not directed towards any of the victims in the District of Columbia incidents; while defendant made his state of mind an issue, the circumstances surrounding the aggravated sexual assault incident in Virginia and the charged crime did not entail a case of peculiar coincidence, in which mere recurrence threw light on mental states. Thomas v. United States, 59 A.3d 1252, 2013 D.C. App. LEXIS 26 (2013).

§ 22-3006. Misdemeanor sexual abuse.

Whoever engages in a sexual act or sexual contact with another person and who should have knowledge or reason to know that the act was committed without that other person's permission, shall be imprisoned for not more than 180 days and, in addition, may be fined in an amount not more than the amount set forth in § 22-3571.01.

(May 23, 1995, D.C. Law 10-257, § 205, 42 DCR 53; June 11, 2013, D.C. Law 19-317, § 232(e), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801, § 22-4151, and § 23-581.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted

"not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $1,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(e) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Indictment and information.
Separate acts.

Indictment and information.

In prosecution for misdemeanor sexual abuse of an eight-year-old child, the six-month range the information identified as the time during which the incident occurred was not overly broad, as the child's youth, defendant's alleged threats, and the traumatic nature of the experience may have made it difficult for her to recall the precise date of the abuse, and defendant had fair notice of the charges against him. Lazo v. United States, 54 A.3d 1221, 2012 D.C. App. LEXIS 501 (2012).

Separate acts.

The trial court's refusal to sever the misdemeanor sexual abuse charges related to victim one from the misdemeanor sexual abuse charges related to victim two was erroneous; defendant's defense was that the sexual encounters were consensual, the intent required for the offense was only that defendant had sexual contact with the victims intending to "gratify (his) sexual desire," and the fact that victim one may not have consented to sexual activity showed nothing as to whether victim two consented to sexual activity with defendant. Robles v. U.S., 2012 WL 3600888 (2012).

Applied in Legette v. United States, 69 A.3d 373, 2013 D.C. App. LEXIS 375 (2013).

§ 22-3007. Defense to sexual abuse.

CASE NOTES

Applied in Legette v. United States, 69 A.3d 373, 2013 D.C. App. LEXIS 375 (2013).

§ 22-3008. First degree child sexual abuse.

Whoever, being at least 4 years older than a child, engages in a sexual act with that child or causes that child to engage in a sexual act shall be imprisoned for any term of years or for life and, in addition, may be fined not more than the amount set forth in § 22-3571.01. However, the court may impose a prison sentence in excess of 30 years only in accordance with § 22-3020 or § 24-403.01(b-2). For purposes of imprisonment following revocation of release authorized by § 24-403.01(b)(7), the offense defined by this section is a Class A felony.

(May 23, 1995, D.C. Law 10-257, § 207, 42 DCR 53; June 8, 2001, D.C. Law 13-302, § 7(b), 47 DCR 7249; June 11, 2013, D.C. Law 19-317, § 232(f), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3011, § 22-3012, § 22-4001, § 22-4502, § 23-113, § 24-112, and § 24-403.01.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "an amount not to exceed $250,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(f) of the Criminal Fine Pro-

portionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Construction with other law.

Defendant's motion for acquittal was denied because 18 U.S.C.S. § 2422(b) only required the Government to show that if defendant and the minors at issue had engaged in the sexual activity defendant attempted to persuade, induce, entice, or coerce the minors to engage in, defendant could have been charged with a violation of D.C. Code § 22-3008 (the Government was not required to show that defendant could have been charged with an attempt to violate the underlying state law in order to obtain a conviction). United States v. Hite, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 84180 (D.D.C. June 14, 2013).

§ 22-3009. Second degree child sexual abuse.

Whoever, being at least 4 years older than a child, engages in sexual contact with that child or causes that child to engage in sexual contact shall be imprisoned for not more than 10 years and, in addition, may be fined in an amount not more than the amount set forth in § 22-3571.01.

(May 23, 1995, D.C. Law 10-257, § 208, 42 DCR 53; June 11, 2013, D.C. Law 19-317, § 232(g), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $100,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(g) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3009.01. First degree sexual abuse of a minor.

Whoever, being 18 years of age or older, is in a significant relationship with a minor, and engages in a sexual act with that minor or causes that minor to engage in a sexual act shall be imprisoned for not more than 15 years and may be fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 208a, as added Apr. 24, 2007, D.C. Law 16-306, § 216(b), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(h), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $150,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(h) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses

committed on or after June 11, 2013.

§ 22-3009.02. Second degree sexual abuse of a minor.

Whoever, being 18 years of age or older, is in a significant relationship with a minor and engages in a sexual contact with that minor or causes that minor to engage in a sexual contact shall be imprisoned for not more than 7 ½ years and may be fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 208b, as added Apr. 24, 2007, D.C. Law 16-306, § 216(c), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(i), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3010 and § 23-113.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $75,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(i) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3009.03. First degree sexual abuse of a secondary education student.

Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in a sexual act with a student under the age of 20 years enrolled in that school or school system, or causes that student to engage in a sexual act, shall be imprisoned for not more than 10 years, fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 208c, as added Oct. 23, 2010, D.C. Law 18-239, § 204, 57 DCR 5405; June 11, 2013, D.C. Law 19-317, § 232(j), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $100,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(j) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3009.04. Second degree sexual abuse of a secondary education student.

Any teacher, counselor, principal, coach, or other person of authority in a secondary level school who engages in sexual conduct with a student under the age of 20 years enrolled in that school or school system, or causes that student

to engage in sexual conduct, shall be imprisoned for not more than 5 years, fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 208d, as added Oct. 23, 2010, D.C. Law 18-239, § 204, 57 DCR 5405; June 11, 2013, D.C. Law 19-317, § 232(k), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $50,000".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(k) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3010. Enticing a child or minor.

(a) Whoever, being at least 4 years older than a child or being in a significant relationship with a minor, (1) takes that child or minor to any place for the purpose of committing any offense set forth in §§ 22-3002 to 22-3006 and §§ 22-3008 to 22-3009.02, or (2) seduces, entices, allures, convinces, or persuades or attempts to seduce, entice, allure, convince, or persuade a child or minor to engage in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined not more than the amount set forth in § 22-3571.01, or both.

(b) Whoever, being at least 4 years older than the purported age of a person who represents himself or herself to be a child, attempts (1) to seduce, entice, allure, convince, or persuade any person who represents himself or herself to be a child to engage in a sexual act or contact, or (2) to entice, allure, convince, or persuade any person who represents himself or herself to be a child to go to any place for the purpose of engaging in a sexual act or contact shall be imprisoned for not more than 5 years or may be fined not more than the amount set forth in § 22-3571.01, or both.

(c) No person shall be consecutively sentenced for enticing a child or minor to engage in a sexual act or sexual contact under subsection (a)(2) of this section and engaging in that sexual act or sexual contact with that child or minor, provided, that the enticement occurred closely associated in time with the sexual act or sexual contact.

(May 23, 1995, D.C. Law 10-257, § 209, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(d), 53 DCR 8610; Mar. 25, 2009, D.C. Law 17-353, § 173(b), 56 DCR 1117; June 11, 2013, D.C. Law 19-317, § 232(l), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $50,000" in (a) and (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(l) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses

committed on or after June 11, 2013.

§ 22-3010.01. Misdemeanor sexual abuse of a child or minor.

(a) Whoever, being 18 years of age or older and more than 4 years older than a child, or being 18 years of age or older and being in a significant relationship with a minor, engages in sexually suggestive conduct with that child or minor shall be imprisoned for not more than 180 days, or fined not more than the amount set forth in § 22-3571.01, or both.

(b) For the purposes of this section, the term "sexually suggestive conduct" means engaging in any of the following acts in a way which is intended to cause or reasonably causes the sexual arousal or sexual gratification of any person:

(1) Touching a child or minor inside his or her clothing;

(2) Touching a child or minor inside or outside his or her clothing close to the genitalia, anus, breast, or buttocks;

(3) Placing one's tongue in the mouth of the child or minor; or

(4) Touching one's own genitalia or that of a third person.

(May 23, 1995, D.C. Law 10-257, § 209a, as added Apr. 24, 2007, D.C. Law 16-306, § 216(e), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(m), 60 DCR 2064.)

Section references. — This section is referenced in § 22-4151 and § 23-581.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $1,000" in (a).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(m) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Analysis

Indictment or information.
Right of confrontation.

Indictment or information.

Information gave defendant adequate notice of the charges against him because the government's evidence was sufficient to prove offenses on a date reasonably close to the one alleged in the information, and defendant suffered no substantial prejudice from the range of dates; the evidence presented during the defense case more squarely placed the incidents reasonably close to the dates alleged in the amended information. Hooker v. United States, 70 A.3d 1197, 2013 D.C. App. LEXIS 410 (2013).

Right of confrontation.

Remand was necessary in defendant's misdemeanor sexual abuse of a minor case because the trial court infringed on defendant's U.S. Const. amend. VI right of confrontation by precluding him from questioning the complainant about a previous allegation of sexual assault that he had a good faith basis to believe might have been false. Garibay v. United States, 72 A.3d 133, 2013 D.C. App. LEXIS 418 (2013).

§ 22-3010.02. Arranging for a sexual contact with a real or fictitious child.

(a) It is unlawful for a person to arrange to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child at least 4 years younger than the person, or to arrange for another person to engage in a sexual act or sexual contact with an individual (whether real or fictitious) who is or who is represented to be a child of at least 4 years younger than the person. For the purposes of this section, arranging to engage in a sexual act or sexual contact with an individual who is fictitious shall be unlawful only if the arrangement is done by or with a law enforcement officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than 5 years, fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 209b, as added June 3, 2011, D.C. Law 18-377, § 11(a), 58 DCR 1174; June 11, 2013, D.C. Law 19-317, § 232(n), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "an amount not to exceed $50,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 232(n) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3013. First degree sexual abuse of a ward, patient, client, or prisoner.

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual act with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner to engage in or submit to a sexual act shall be imprisoned for not more than 10 years or fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 212, 42 DCR 53; May 17, 1996, D.C. Law 11-119, § 6(a), 43 DCR 528; Apr. 24, 2007, D.C. Law 16-306, § 216(g), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(o), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3017, § 23-113, and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $100,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(o) of the Criminal Fine Pro-

portionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3014. Second degree sexual abuse of a ward, patient, client, or prisoner.

Any staff member, employee, contract employee, consultant, or volunteer at a hospital, treatment facility, detention or correctional facility, group home, or other institution; anyone who is an ambulance driver or attendant, a bus driver or attendant, or person who participates in the transportation of a ward, patient, client, or prisoner to and from such institutions; or any official custodian of a ward, patient, client, or prisoner, who engages in a sexual contact with a ward, patient, client, or prisoner, or causes a ward, patient, client, or prisoner, to engage in or submit to a sexual contact shall be imprisoned for not more than 5 years or fined not more than the amount set forth in § 22-3571.01, or both.

(May 23, 1995, D.C. Law 10-257, § 213, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(h), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(p), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $50,000".

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(p) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3015. First degree sexual abuse of a patient or client.

(a) A person is guilty of first degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual act with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual act is for a bona fide medical or therapeutic purpose, or for a bona fide professional purpose for which the services are being provided;

(2) The nature of the treatment or service provided by the actor and the mental, emotional, or physical condition of the patient or client are such that the actor knows or has reason to know that the patient or client is impaired from declining participation in the sexual act;

(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

(4) The sexual act occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.

(b) Any person found guilty pursuant to subsection (a) of this section shall be imprisoned for not more than 10 years and, in addition, may be fined not more than the amount set forth in § 22-3571.01.

(May 23, 1995, D.C. Law 10-257, § 214, 42 DCR 53; May 17, 1996, D.C. Law 11-119, § 6(b), 43 DCR 528; Apr. 24, 2007, D.C. Law 16-306, § 216(i), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(q), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $100,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(q) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3016. Second degree sexual abuse of a patient or client.

(a) A person is guilty of second degree sexual abuse who purports to provide, in any manner, professional services of a medical, therapeutic, or counseling (whether legal, spiritual, or otherwise) nature, and engages in a sexual contact with another person who is a patient or client of the actor, or is otherwise in a professional relationship of trust with the actor; and

(1) The actor represents falsely that the sexual contact is for a bona fide medical or therapeutic purpose, or for a bona fide professional purpose for which the services are being provided;

(2) The nature of the treatment or service provided by the actor and the mental, emotional, or physical condition of the patient or client are such that the actor knows or has reason to know that the patient or client is impaired from declining participation in the sexual contact;

(3) The actor represents falsely that he or she is licensed as a particular type of professional; or

(4) The sexual contact occurs during the course of a consultation, examination, treatment, therapy, or other provision of professional services.

(b) Any person found guilty pursuant to subsection (a) of this section shall be imprisoned for not more than 5 years and, in addition, may be fined not more than the amount set forth in § 22-3571.01.

(May 23, 1995, D.C. Law 10-257, § 215, 42 DCR 53; Apr. 24, 2007, D.C. Law 16-306, § 216(j), 53 DCR 8610; June 11, 2013, D.C. Law 19-317, § 232(r), 60 DCR 2064.)

Section references. — This section is referenced in § 23-113 and § 24-112.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "in an amount not to exceed $50,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 232(r) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3002.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3020. Aggravating circumstances.

Section references. — This section is referenced in § 22-3002, § 22-3008, § 22-4502, § 24-112, and § 24-403.01.

CASE NOTES

Other offenses.

Trial court erred by admitting evidence of defendant's conviction in Virginia for sexual assault because defendant's conduct in the Virginia incident was not directed towards any of the victims in the District of Columbia incidents; while defendant made his state of mind an issue, the circumstances surrounding the aggravated sexual assault incident in Virginia and the charged crime did not entail a case of peculiar coincidence, in which mere recurrence threw light on mental states. Thomas v. United States, 59 A.3d 1252, 2013 D.C. App. LEXIS 26 (2013).

Subchapter II-A. Reporting Requirements in Child Sexual Abuse Offense Cases.

§ 22-3020.51. Definitions.

For the purposes of this subchapter, the term:

(1) "Child" means an individual who has not yet attained the age of 16 years.

(2) "Person" means an individual 18 years of age or older.

(3) "Police" means the Metropolitan Police Department.

(4) "Sexual abuse" means any act that is a violation of:

(A) Section 22-1834;

(B) Section § 22-2704;

(C) This chapter (§ 22-3001 et seq.); or

(D) Section 22-3102.

(May 23, 1995, D.C. Law 10-257, § 251, as added June 8, 2013, D.C. Law 19-315, § 4, 60 DCR 1702.)

Section references. — This section is referenced in § 2-1831.03 and § 4-1321.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-315 added this section.

Legislative history of Law 19-315. — Law 19-315, the "Child Sexual Abuse Reporting Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-647. The Bill was adopted on first and second readings on Nov. 15, 2012 and Dec. 4, 2012, respectively. Signed by the Mayor on Jan. 22, 2013, it was assigned Act No. 19-627 and transmitted to Congress for its review. D.C. Law 19-315 became effective on June 8, 2013.

§ 22-3020.52. Reporting requirements and privileges.

(a) Any person who knows, or has reasonable cause to believe, that a child is a victim of sexual abuse shall immediately report such knowledge or belief to the police. For the purposes of this subchapter, a call to 911, or a report to the Child and Family Services Agency, shall be deemed a report to the police.

(b) Any person who is or has been a victim of sexual abuse is not required to report pursuant to subsection (a) of this section if the identity of the alleged perpetrator matches the identity of the victim's abuser.

(c) No legally recognized privilege, except for the following, shall apply to this subchapter:

(1) A lawyer or a person employed by a lawyer is not required to report pursuant to subsection (a) of this section if the lawyer or employee is providing representation in a criminal, civil, or delinquency matter, and the basis for the knowledge or belief arises solely in the course of that representation.

(2)(A) The notification requirements of subsection (a) of this subsection do not apply to a priest, clergyman, rabbi, or other duly appointed, licensed, ordained, or consecrated minister of a given religion in the District of Columbia, or a duly accredited practitioner of Christian Science in the District of Columbia, if the basis for the knowledge or belief is the result of a confession or penitential communication made by a penitent directly to the minister if:

(i) The penitent made the confession or penitential communication in confidence;

(ii) The confession or penitential communication was made expressly for a spiritual or religious purpose;

(iii) The penitent made the confession or penitential communication to the minister in the minister's professional capacity; and

(iv) The confession or penitential communication was made in the course of discipline enjoined by the church or other religious body to which the minister belongs.

(B) A confession or communication made under any other circumstances does not fall under this exemption.

(d) This section should not be construed as altering the special duty to report by persons specified in § 4-1321.02(b).

(May 23, 1995, D.C. Law 10-257, § 252, as added June 8, 2013, D.C. Law 19-315, § 4, 60 DCR 1702.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-315 added this section.

Legislative history of Law 19-315. — See note to § 22-3020.51.

§ 22-3020.53. Defense to non-reporting.

(a) Any survivor of domestic violence may use such domestic violence as a defense to his or her failure to report under this subchapter.

(b) For the purposes of this section, the term "domestic violence" means intimate partner violence, as defined in § 16-1001(7), and intrafamily violence, as defined in § 16-1001(9).

(May 23, 1995, D.C. Law 10-257, § 253, as added June 8, 2013, D.C. Law 19-315, § 4, 60 DCR 1702.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-315 added this section.

Legislative history of Law 19-315. — See note to § 22-3020.51.

§ 22-3020.54. Penalties.

(a) Any person required to make a report under this subchapter who willfully fails to make such a report shall be subject to a civil fine of $300.

(b) Adjudication of any infraction of this subchapter shall be handled by the Office of Administrative Hearings pursuant to § 2-1831.03(b-6).

(May 23, 1995, D.C. Law 10-257, § 254, as added June 8, 2013, D.C. Law 19-315, § 4, 60 DCR 1702.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-315 added this section.

Legislative history of Law 19-315. — See note to § 22-3020.51.

§ 22-3020.55. Immunity from liability.

(a) Any person who in good faith makes a report pursuant to this subchapter shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report or any participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the child or resulting from the report, good faith shall be presumed unless rebutted.

(b) Any person who makes a good-faith report pursuant to this subchapter and, as a result thereof, is discharged from his or her employment or in any other manner discriminated against with respect to compensation, hire, tenure, or terms, conditions, or privileges of employment, may commence a civil action for appropriate relief. If the court finds that the person is an individual who was required to report, who in good faith made a report, and who was discharged or discriminated against as a result, the court may issue an order granting appropriate relief, including reinstatement with back pay. The District may intervene in any action commenced under this subsection.

(May 23, 1995, D.C. Law 10-257, § 255, as added June 8, 2013, D.C. Law 19-315, § 4, 60 DCR 1702.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-315 added this section.

Legislative history of Law 19-315. — See note to § 22-3020.51.

Subchapter III. Admission of Evidence in Sexual Abuse Offense Cases.

§ 22-3022. Admissibility of other evidence of victim's past sexual behavior.

Section references. — This section is referenced in § 22-1839.

LAW REVIEWS AND JOURNAL COMMENTARIES

From Chastity Requirement to Sexual License: Sexual Consent and a New Rape Shield Law. Michelle J. Anderson, 70 Geo. Wash. L. Rev. 51 (2002).

CHAPTER 31. SEXUAL PERFORMANCE USING MINORS.

Sec.
22-3103. Penalties.

§ 22-3103. Penalties.

Violation of this chapter shall be a felony and shall be punished by:

(1) A fine of not more than the amount set forth in § 22-3571.01 or imprisonment for not more than 10 years, or both for the first offense; or

(2) A fine of not more than the amount set forth in § 22-3571.01 or imprisonment for not more than 20 years, or both for the 2nd and each subsequent offense.

(Mar. 9, 1983, D.C. Law 4-173, § 4, 29 DCR 5749; June 11, 2013, D.C. Law 19-317, § 233, 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (1), and for "not more than $15,000" in (2).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 31A. STALKING.

Sec.
22-3134. Penalties.

§ 22-3134. Penalties.

(a) Except as provided in subsections (b) and (c) of this section, a person who

violates § 22-3133 shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 12 months, or both.

(b) A person who violates § 22-3133 shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 5 years, or both, if the person:

(1) At the time, was subject to a court, parole, or supervised release order prohibiting contact with the specific individual;

(2) Has one prior conviction in any jurisdiction of stalking any person within the previous 10 years;

(3) At the time, was at least 4 years older than the specific individual and the specific individual was less than 18 years of age; or

(4) Caused more than $ 2,500 in financial injury.

(c) A person who violates § 22-3133 shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 10 years, or both, if the person has 2 or more prior convictions in any jurisdiction for stalking any person, at least one of which was for a jury demandable offense.

(d) A person shall not be sentenced consecutively for stalking and identify theft based on the same act or course of conduct.

(Dec. 10, 2009, D.C. Law 18-88, § 504, 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 213(d), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (a), for "not more than $10,000" in (b), and for "not more than $25,000" in (c).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 213(d) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 31B. TERRORISM.

§ 22-3154. Manufacture or possession of a weapon of mass destruction.

(a) A person who manufactures or possesses a weapon of mass destruction capable of causing multiple deaths, serious bodily injuries to multiple persons, or massive destruction of property may, upon conviction, be punished by imprisonment for life.

(b) A person who attempts or conspires to manufacture or possess a weapon of mass destruction capable of causing multiple deaths, serious bodily injuries

to multiple persons, or massive destruction of property may, upon conviction, be punished by imprisonment for not more than 30 years.

(c) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Oct. 17, 2002, D.C. Law 14-194, § 104, 49 DCR 5306; June 11, 2013, D.C. Law 19-317, § 307(a), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 307(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

ANALYSIS

Constructive possession.
Evidence.
Merger of offenses.

Constructive possession.

Evidence that the truck containing the destructive device belonged to defendant's girlfriend, that defendant had the keys and registration papers in his pocket when he was arrested, and that he drove the truck on the day in question was sufficient to prove constructive possession. Gorbey v. United States, 54 A.3d 668, 2012 D.C. App. LEXIS 477 (2012).

Evidence.

Testimony permitting the jury to infer that the device was, within the meaning of D.C. Code § 22-3154(b), a destructive device or weapon capable of causing multiple deaths or serious bodily injuries to multiple persons, and that it was an explosive, bomb, or, at the very least, a combination of parts from which an explosive or bomb may be readily assembled, and that the components found in the truck constituted a device, instrument, or object designed to explode or produce uncontained combustion. was sufficient to support defendant's conviction for attempted manufacture or possession of a weapon of mass destruction. Gorbey v. United States, 54 A.3d 668, 2012 D.C. App. LEXIS 477 (2012).

Merger of offenses.

Convictions for possession of an explosive device and attempted manufacture or possession of a weapon of mass destruction (WMD) did not merge, because each required an element the other did not; possession of an explosive device required proof that the device was signed to explode or produce uncontained combustion which the WMD offense did not, and the WMD offense required that the device have the potential to seriously injury or kill multiple victims which the explosive device offense did not. Gorbey v. United States, 54 A.3d 668, 2012 D.C. App. LEXIS 477 (2012).

§ 22-3155. Use, dissemination, or detonation of a weapon of mass destruction.

(a) A person who uses, disseminates, or detonates a weapon of mass destruction capable of causing multiple deaths, serious bodily injuries to multiple persons, or massive destruction of property may, upon conviction, be punished by imprisonment for life.

(b) A person who attempts or conspires to use, disseminate, or detonate a weapon of mass destruction capable of causing multiple deaths, serious bodily injuries to multiple persons, or massive destruction of property may, upon conviction, be punished by imprisonment for not more than 30 years.

(c) In addition to any other penalty provided under this section, a person may be fined an amount not more than the amount set forth in § 22-3571.01.

(Oct. 17, 2002, D.C. Law 14-194, § 105, 49 DCR 5306; June 11, 2013, D.C. Law 19-317, § 307(b), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 added (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 307(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3154.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CHAPTER 32. THEFT; FRAUD; STOLEN PROPERTY; FORGERY; AND EXTORTION.

Subchapter II. Theft; Related Offenses.

§ 22-3211. Theft.

Section references. — This section is referenced in § 22-3202, § 22-3212, § 23-546, § 23-581, § 27-101, and § 50-1403.02.

CASE NOTES

ANALYSIS

Defenses.

Defendants' second-degree theft conviction under D.C. Code § 22-3211(b) was supported by sufficient evidence where: (1) even assuming

the agency's telecommunications manager (TM) had apparent authority to enter into a cable disposal contract, he did not have the apparent authority to enter into a cable cutting contract for a kickback; (2) despite defendants' efforts to provide innocent explanations for their conduct, both defendants withheld information from an investigator, lied to him, and tried to defend the kickback arrangement as an opportunity cost; and (3) defendants took the cable without authority or right because they lacked a reasonable belief, at the time of contracting, that the TM had authority to enter into the agreement. Castoreno v. United States, 65 A.3d 1172, 2013 D.C. App. LEXIS 265 (2013).

Wrongful discharge.

Trial court did not err in granting a former employer summary judgment in a former employee's action alleging wrongful discharge for her refusal to violate D.C. Code §§ 22-3211 and 22-3221 and D.C. Bar R. X, § 1.1 because the employer provided numerous affidavits and the employee's deposition testimony to support its claim that it terminated her employment due to her unacceptably low rate of productivity and her refusal to commit to improving it; the employee offered no admissible evidence that compliance with the employer's productivity goals caused or would require foreign language document reviewers to violate the law or the Rules of Professional Conduct. Wallace v. Eckert, 57 A.3d 943, 2012 D.C. App. LEXIS 519 (2012).

§ 22-3212. Penalties for theft.

(a) *Theft in the first degree.* — Any person convicted of theft in the first degree shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both, if the value of the property obtained or used is $1,000 or more.

(b) *Theft in the second degree.* — Any person convicted of theft in the second degree shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both, if the property obtained or used has some value.

(c) A person convicted of theft in the first or second degree who has 2 or more prior convictions for theft, not committed on the same occasion, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years and for a mandatory-minimum term of not less than one year, or both. A person sentenced under this subsection shall not be released from prison, granted probation, or granted suspension of sentence, prior to serving the mandatory-minimum.

(d) For the purposes of this section, a person shall be considered as having 2 or more prior convictions for theft if he or she has been convicted on at least 2 occasions of violations of:

(1) Section 22-3211;

(2) A statute in one or more jurisdictions prohibiting theft or larceny; or

(3) Conduct that would constitute a violation of section 22-3211 if committed in the District of Columbia.

(Dec. 1, 1982, D.C. Law 4-164, § 112, 29 DCR 3976; Aug. 20, 1994, D.C. Law 10-151, § 113(a), 41 DCR 2608; June 3, 1997, D.C. Law 11-275, § 12(b), 44 DCR 1408; Dec. 10, 2009, D.C. Law 18-88, § 214(d), 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 205(a), 60 DCR 2064.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (a) and (c), and for "not more than $1,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this

section, see § 205(a) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — Law 19-317, the "Criminal Fine Proportionality Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-214. The Bill was adopted on first and second readings on Oct. 16, 2012, and Nov. 1, 2012, respectively. Signed by the Mayor on Jan. 23, 2013, it was assigned Act No. 19-641 and transmitted to Congress for its review. D.C. Law 19-317 became effective on June 11, 2013.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3213. Shoplifting.

(a) A person commits the offense of shoplifting if, with intent to appropriate without complete payment any personal property of another that is offered for sale or with intent to defraud the owner of the value of the property, that person:

(1) Knowingly conceals or takes possession of any such property;

(2) Knowingly removes or alters the price tag, serial number, or other identification mark that is imprinted on or attached to such property; or

(3) Knowingly transfers any such property from the container in which it is displayed or packaged to any other display container or sales package.

(b) Any person convicted of shoplifting shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 90 days, or both.

(c) It is not an offense to attempt to commit the offense described in this section.

(d) A person who offers tangible personal property for sale to the public, or an employee or agent of such a person, who detains or causes the arrest of a person in a place where the property is offered for sale shall not be held liable for detention, false imprisonment, malicious prosecution, defamation, or false arrest, in any proceeding arising out of such detention or arrest, if:

(1) The person detaining or causing the arrest had, at the time thereof, probable cause to believe that the person detained or arrested had committed in that person's presence, an offense described in this section;

(2) The manner of the detention or arrest was reasonable;

(3) Law enforcement authorities were notified within a reasonable time; and

(4) The person detained or arrested was released within a reasonable time of the detention or arrest, or was surrendered to law enforcement authorities within a reasonable time.

(Dec. 1, 1982, D.C. Law 4-164, § 113, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(b), 60 DCR 2064.)

Section references. — This section is referenced in § 23-581 and § 27-101.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $300" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(b) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3214. Commercial piracy.

(a) For the purpose of this section, the term:

(1) "Owner", with respect to phonorecords or copies, means the person who owns the original fixation of the property involved or the exclusive licensee in the United States of the rights to reproduce and distribute to the public phonorecords or copies of the original fixation. In the case of a live performance the term "owner" means the performer or performers.

(2) "Proprietary information" means customer lists, mailing lists, formulas, recipes, computer programs, unfinished designs, unfinished works of art in any medium, process, program, invention, or any other information, the primary commercial value of which may diminish if its availability is not restricted.

(3) "Phonorecords" means material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

(b) A person commits the offense of commercial piracy if, with the intent to sell, to derive commercial gain or advantage, or to allow another person to derive commercial gain or advantage, that person reproduces or otherwise copies, possesses, buys, or otherwise obtains phonorecords of a sound recording, live performance, or copies of proprietary information, knowing or having reason to believe that the phonorecord or copies were made without the consent of the owner. A presumption of the requisite intent arises if the accused possesses 5 or more unauthorized phonorecords either of the same sound recording or recording of a live performance.

(c) Nothing in this section shall be construed to prohibit:

(1) Copying or other reproduction that is in the manner specifically permitted by Title 17 of the United States Code; or

(2) Copying or other reproduction of a sound recording that is made by a licensed radio or television station or a cable broadcaster solely for broadcast or archival use.

(d) Any person convicted of commercial piracy shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both.

(e) This section does not apply to any sound recording initially fixed on or after February 15, 1972.

(Dec. 1, 1982, D.C. Law 4-164, § 114, 29 DCR 3976; Aug. 20, 1994, D.C. Law 10-151, § 113(b), 41 DCR 2608; Oct. 31, 1995, D.C. Law 11-73, § 2(a), 42 DCR 3277; June 11, 2013, D.C. Law 19-317, § 205(c), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (d).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(c) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3214.01. Deceptive labeling.

(a) For the purposes of this section, the term:

(1) "Audiovisual works" means material objects upon which are fixed a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, now known or later developed, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

(2) "Manufacturer" means the person who authorizes or causes the copying, fixation, or transfer of sounds or images to sound recordings or audiovisual works subject to this section.

(3) "Sound recordings" means material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

(b) A person commits the offense of deceptive labeling if, for commercial advantage or private financial gain, that person knowingly advertises, offers for sale, resale, or rental, or sells, resells, rents, distributes, or transports, or possesses for such purposes, a sound recording or audiovisual work, the label, cover, or jacket of which does not clearly and conspicuously disclose the true name and address of the manufacturer thereof.

(c) Nothing in this section shall be construed to prohibit:

(1) Any broadcaster who, in connection with, or as part of, a radio or television broadcast transmission, or for the purposes of archival preservation, transfers any sounds or images recorded on a sound recording or audiovisual work; or

(2) Any person who, in his own home, for his own personal use, and without deriving any commercial advantage or private financial gain, transfers any sounds or images recorded on a sound recording or audiovisual work.

(d)(1) Any person convicted of deceptive labeling involving less than 1,000 sound recordings or less than 100 audiovisual works during any 180-day period shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 1 year, or both.

(2) Any person convicted of deceptive labeling involving 1,000 or more sound recordings or 100 or more audiovisual works during a 180-day period shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(e) Upon conviction under this section, the court shall, in addition to the penalties provided by this section, order the forfeiture and destruction or other

disposition of all sound recordings, audiovisual works, and equipment used, or attempted to be used, in violation of this section.

(Dec. 1, 1982, D.C. Law 4-164, § 114a, as added Oct. 31, 1995, D.C. Law 11-73, § 2(b), 42 DCR 3277; June 11, 2013, D.C. Law 19-317, § 205(d), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (d)(1), and for "not more than $50,000" in (d)(2).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(d) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

CASE NOTES

Admissibility of evidence.

Thirty DVDs and 39 CDs allegedly seized from defendant at time of his arrest were admissible in prosecution for deceptive labeling of sound and audiovisual recordings, despite chain-of-custody concerns such as failure of police to mark each DVD and CD for identification, record titles of discs, or seal the evidence bag containing the discs, combined with dearth of testimony at trial about evidence-handling procedures of the evidence control branch; there was no evidence that police failed to maintain continuous custody over the discs seized from defendant, nor any evidence of tampering or other mishandling. Plummer v. United States, 43 A.3d 260, 2012 D.C. App. LEXIS 155 (2012).

§ 22-3214.02. Unlawful operation of a recording device in a motion picture theater.

(a) For the purposes of this section, the term:

(1) "Motion picture theater" means a theater or other auditorium in which a motion picture is exhibited.

(2) "Recording device" means a photographic or video camera, audio or video recorder, or any other device not existing, or later developed, which may be used for recording sounds or images.

(b) A person commits the offense of unlawfully operating a recording device in a motion picture theater if, without authority or permission from the owner of a motion picture theater, or his or her agent, that person operates a recording device within the premises of a motion picture theater.

(c) Any person convicted of unlawfully operating a recording device in a motion picture theater shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 90 days, or both.

(d) A theater owner, or an employee or agent of a theater owner, who detains or causes the arrest of a person in, or immediately adjacent to, a motion picture theater shall not be held liable for detention, false imprisonment, malicious prosecution, defamation, or false arrest in any proceeding arising out of such detention or arrest, if:

(1) The person detaining or causing the arrest had, at the time thereof, probable cause to believe that the person detained or arrested had committed, or attempted to commit, in that person's presence, an offense described in this section;

(2) The manner of the detention or arrest was reasonable;

(3) Law enforcement authorities were notified within a reasonable time; and

(4) The person detained or arrested was released within a reasonable time of the detention or arrest, or was surrendered to law enforcement authorities within a reasonable time.

(Dec. 1, 1982, D.C. Law 4-164, § 114b, as added Oct. 31, 1995, D.C. Law 11-73, § 2(b), 42 DCR 3277; June 11, 2013, D.C. Law 19-317, § 205(e), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $300" in (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(e) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3215. Unauthorized use of motor vehicles.

(a) For the purposes of this section, the term "motor vehicle" means any automobile, self-propelled mobile home, motorcycle, truck, truck tractor, truck tractor with semitrailer or trailer, or bus.

(b) A person commits the offense of unauthorized use of a motor vehicle under this subsection if, without the consent of the owner, the person takes, uses, or operates a motor vehicle, or causes a motor vehicle to be taken, used, or operated, for his or her own profit, use, or purpose.

(c)(1) A person commits the offense of unauthorized use of a motor vehicle under this subsection if, after renting, leasing, or using a motor vehicle under a written agreement which provides for the return of the motor vehicle to a particular place at a specified time, that person knowingly fails to return the motor vehicle to that place (or to any authorized agent of the party from whom the motor vehicle was obtained under the agreement) within 18 days after written demand is made for its return, if the conditions set forth in paragraph (2) of this subsection are met.

(2) The conditions referred to in paragraph (1) of this subsection are as follows:

(A) The written agreement under which the motor vehicle is obtained contains the following statement: "WARNING — Failure to return this vehicle in accordance with the terms of this rental agreement may result in a criminal penalty of up to 3 years in jail". This statement shall be printed clearly and conspicuously in a contrasting color, set off in a box, and signed by the person obtaining the motor vehicle in a space specially provided;

(B) There is displayed clearly and conspicuously on the dashboard of the motor vehicle the following notice: "NOTICE — Failure to return this vehicle on time may result in serious criminal penalties"; and

(C) The party from whom the motor vehicle was obtained under the agreement makes a written demand for the return of the motor vehicle, either by actual delivery to the person who obtained the motor vehicle, or by deposit

in the United States mail of a postpaid registered or certified letter, return receipt requested, addressed to the person at each address set forth in the written agreement or otherwise provided by the person. The written demand shall state clearly that failure to return the motor vehicle may result in prosecution for violation of the criminal law of the District of Columbia punishable by up to 3 years in jail. The written demand shall not be made prior to the date specified in the agreement for the return of the motor vehicle, except that, if the parties or their authorized agents have mutually agreed to some other date for the return of the motor vehicle, then the written demand shall not be made prior to the other date.

(3) This subsection shall not apply in the case of a motor vehicle obtained under a retail installation contract as defined in § 50-601(9).

(4) It shall be a defense in any criminal proceeding brought under this subsection that a person failed to return a motor vehicle for causes beyond his or her control. The burden of raising and going forward with the evidence with respect to such a defense shall be on the person asserting it. In any case in which such a defense is raised, evidence that the person obtained the motor vehicle by reason of any false statement or representation of material fact, including a false statement or representation regarding his or her name, residence, employment, or operator's license, shall be admissible to determine whether the failure to return the motor vehicle was for causes beyond his or her control.

(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, a person convicted of unauthorized use of a motor vehicle under subsection (b) of this section shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 5 years, or both.

(2)(A) A person convicted of unauthorized use of a motor vehicle under subsection (b) of this section who took, used, or operated the motor vehicle, or caused the motor vehicle to be taken, used, or operated, during the course of or to facilitate a crime of violence, shall be:

(i) Fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 10 years, or both, consecutive to the penalty imposed for the crime of violence; and

(ii) If serious bodily injury results, imprisoned for not less than 5 years, consecutive to the penalty imposed for the crime of violence.

(B) For the purposes of this paragraph, the term "crime of violence" shall have the same meaning as provided in § 23-1331(4).

(3)(A) A person convicted of unauthorized use of a motor vehicle under subsection (b) of this section who has 2 or more prior convictions for unauthorized use of a motor vehicle or theft in the first degree, not committed on the same occasion, shall be fined not less than $5,000 and not more than the amount set forth in § 22-3571.01, or imprisoned for not less than 30 months nor more than 15 years, or both.

(B) For the purposes of this paragraph, a person shall be considered as having 2 prior convictions for unauthorized use of a motor vehicle or theft in the first degree if the person has been twice before convicted on separate occasions of:

(i) A prior violation of subsection (b) of this section or theft in the first degree;

(ii) A statute in one or more other jurisdictions prohibiting unauthorized use of a motor vehicle or theft in the first degree;

(iii) Conduct that would constitute a violation of subsection (b) of this section or a violation of theft in the first degree if committed in the District of Columbia; or

(iv) Conduct that is substantially similar to that prosecuted as a violation of subsection (b) of this section or theft in the first degree.

(4) A person convicted of unauthorized use of a motor vehicle under subsection (c) of this section shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 3 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 115, 29 DCR 3976; Mar. 10, 1983, D.C. Law 4-199, § 2, 30 DCR 119; Dec. 10, 2009, D.C. Law 18-88, § 214(e), 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 205(f), 60 DCR 2064.)

Section references. — This section is referenced in § 16-2331, § 16-2332, § 16-2333, § 23-581, and § 50-1403.02.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317, in (d), substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (d)(1) and (d)(4), and for "not more than $10,000" in (d)(2)(A)(i); and substituted "and not more than the amount set forth in § 22-3571.01" for "nor more than $15,000" in (d)(3)(A).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(f) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3216. Taking property without right.

A person commits the offense of taking property without right if that person takes and carries away the property of another without right to do so. A person convicted of taking property without right shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 90 days, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 116, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(g), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $300".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(g) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter II-A. Theft of Utility Service.

§ 22-3218.04. Penalties for violation.

(a) A person who violates § 22-3218.02 shall be guilty of a misdemeanor, and, upon a conviction, shall be imprisoned for not more than 60 days, or fined, not more than the amount set forth in § 22-3571.01, or both. In the case of a second or subsequent conviction, a person who violates § 22-3218.02 shall be imprisoned for not more than 180 days, or fined, not more than the amount set forth in § 22-3571.01, or both.

(b) In addition to the criminal penalties in subsection (a) of this section, a person who is found to have violated § 22-3218.02 in a civil proceeding shall be liable to the company using or engaged in the generation or distribution of electricity or gas for restitution of the amount of any losses or damage sustained.

(Dec. 1, 1982, D.C. Law 4-164, § 118c, as added June 12, 2003, D.C. Law 14-310, § 15, 50 DCR 1092; June 11, 2013, D.C. Law 19-317, § 205(h), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317, in (a), substituted the first occurrence of "not more than the amount set forth in § 22-3571.01" for "not more than $500", and the second occurrence for "not more than $1,500".

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(h) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter III. Fraud; Related Offenses.

§ 22-3221. Fraud.

Section references. — This section is referenced in § 22-3202, § 27-101, § 31-5606.04, and § 44-151.15.

CASE NOTES

Wrongful discharge.

Trial court did not err in granting a former employer summary judgment in a former employee's action alleging wrongful discharge for her refusal to violate D.C. Code §§ 22-3211 and 22-3221 and D.C. Bar R. X, § 1.1 because the employer provided numerous affidavits and the employee's deposition testimony to support its claim that it terminated her employment due to her unacceptably low rate of productivity and her refusal to commit to improving it; the employee offered no admissible evidence that compliance with the employer's productivity goals caused or would require foreign language document reviewers to violate the law or the Rules of Professional Conduct. Wallace v. Eckert, 57 A.3d 943, 2012 D.C. App. LEXIS 519 (2012).

§ 22-3222. Penalties for fraud.

(a) *Fraud in the first degree.* —

(1) Any person convicted of fraud in the first degree shall be fined not

more than the amount set forth in § 22-3571.01 or twice the value of the property obtained or lost, whichever is greater, or imprisoned for not more than 10 years, or both, if the value of the property obtained or lost is $1,000 or more; and

(2) Any person convicted of fraud in the first degree shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both, if the property obtained or lost has some value.

(b) *Fraud in the second degree.* —

(1) Any person convicted of fraud in the second degree shall be fined not more than the amount set forth in § 22-3571.01 or twice the value of the property which was the object of the scheme or systematic course of conduct, whichever is greater, or imprisoned for not more than 3 years, or both, if the value of the property which was the object of the scheme or systematic course of conduct is $1,000 or more; and

(2) Any person convicted of fraud in the second degree shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both, if the property that was the object of the scheme or systematic course of conduct has some value.

(Dec. 1, 1982, D.C. Law 4-164, § 122, 29 DCR 3976; Aug. 20, 1994, D.C. Law 10-151, § 113(c), 41 DCR 2608; June 3, 2011, D.C. Law 18-377, § 12(a), 58 DCR 1174; June 11, 2013, D.C. Law 19-317, §§ 111(a)(1), 205(i), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801, § 20-108.01, and § 42-404.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (a)(1), for "not more than $1,000" in (a)(2) and (b)(2), and for "not more than $3,000" in (b)(1); and substituted "twice" for "3 times" in (a)(1) and (b)(1).

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 111(a)(1) and 205(i) of the Criminal Fine Proportionality Emergency Amendment Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3223. Credit card fraud.

(a) For the purposes of this section, the term "credit card" means an instrument or device, whether known as a credit card, debit card, or by any other name, issued for use of the cardholder in obtaining or paying for property or services.

(b) A person commits the offense of credit card fraud if, with intent to defraud, that person obtains or pays for property or services by:

(1) Knowingly using a credit card, or the number or description thereof, which has been issued to another person without the consent of the person to whom it was issued;

(2) Knowingly using a credit card, or the number or description thereof, which has been revoked or cancelled;

(3) Knowingly using a falsified, mutilated, or altered credit card or number or description thereof;

(4) Representing that he or she is the holder of a credit card and the credit card had not in fact been issued; or

(5) Knowingly using for the employee's or contractor's own purposes a credit card, or the number on or description of the credit card, issued to or provided to an employee or contractor by or at the request of an employer for the employer's purposes.

(c) A credit card is deemed cancelled or revoked when notice in writing thereof has been received by the named holder as shown on the credit card or by the records of the issuer.

(d)(1) Except as provided in paragraph (2) of this subsection, any person convicted of credit card fraud shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 180 days, or both.

(2) Any person convicted of credit card fraud shall be fined not more than the amount set forth in § 22-3571.01, imprisoned for not more than 10 years, or both, if the value of the property or services obtained or paid for is $1,000 or more.

(Dec. 1, 1982, D.C. Law 4-164, § 123, 29 DCR 3976; Aug. 20, 1994, D.C. Law 10-151, § 113(d), 41 DCR 2608; Dec. 10, 2009, D.C. Law 18-88, § 214(f), 56 DCR 7413; June 11, 2013, D.C. Law 19-317, § 205(j), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801 and § 22-3202.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (d)(1), and for "not more than $5,000" in (d)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(j) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3224. Fraudulent registration.

(a) A person commits the offense of fraudulent registration if, with intent to defraud the proprietor or manager of a hotel, motel, or other establishment which provides lodging to transient guests, that person falsely registers under a name or address other than his or her actual name or address.

(b) Any person convicted of fraudulent registration shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 90 days, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 124, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(k), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $300" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(k) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law

19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter III-A. Insurance Fraud.

§ 22-3225.04. Penalties.

(a) Any person convicted of insurance fraud in the first degree shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 15 years, or both.

(b)(1) Except as provided in paragraph (2) of this subsection, any person convicted of insurance fraud in the second degree shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(2) Any person convicted of insurance fraud in the second degree who has been convicted previously of insurance fraud pursuant to § 22-3225.02 or § 22-3225.03, or a felony conviction based on similar grounds in any other jurisdiction, shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(c) Any person convicted of misdemeanor insurance fraud shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both.

(d) A person convicted of a felony violation of this subchapter shall be disqualified from engaging in the business of insurance, subject to 18 U.S.C. § 1033(e)(2).

(Dec. 1, 1982, D.C. Law 4-164, § 125d, as added Apr. 27, 1999, D.C. Law 12-273, § 2, 46 DCR 1132; June 19, 2001, D.C. Law 13-313, § 12(a), 48 DCR 1873; July 25, 2006, D.C. Law 16-144, § 2(d), 53 DCR 2838; June 11, 2013, D.C. Law 19-317, § 205(l), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3225.05.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $50,000" in (a), for "not more than $10,000" in (b)(1), for "not more than $20,000" in (b)(2), and for "not more than $1,000" in (c).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(l) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter III-B. Telephone Fraud.

§ 22-3226.10. Criminal penalties.

Any telephone solicitor who violates § 22-3226.06 and obtains property thereby shall be guilty of the crime of telemarketing fraud, which is punishable as follows:

(1) If the amount of the transaction is valued at $20,000 or more, the

seller or telephone solicitor shall upon conviction be guilty of a felony, and shall be subject to a fine of not more than the amount set forth in § 22-3571.01 or imprisonment for not more than 4 years, or both.

(2) If the amount of the transaction is valued at less than $20,000 but more than $5,000, the seller or telephone solicitor shall upon conviction be guilty of a felony, and shall be subject to a fine of not more than the amount set forth in § 22-3571.01 or imprisonment for not more than 3 years, or both.

(3) If the amount of the transaction is valued at less than $5,000 or less, the seller or telephone solicitor shall upon conviction be guilty of a misdemeanor and shall be subject to a fine of not more than the amount set forth in § 22-3571.01 or imprisonment for not more than 6 months, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 126j, as added June 8, 2001, D.C. Law 13-301, § 102, 47 DCR 7039; June 11, 2013, D.C. Law 19-317, § 205(m), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801 and § 22-3226.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (1), for "not more than $5,000" in (2), and "not more than $500" in (3).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(m) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter III-C. Identity Theft.

§ 22-3227.03. Penalties for identity theft.

(a) *Identity theft in the first degree.* — Any person convicted of identity theft shall be fined not more than (1) $10,000, (2) twice the value of the property obtained or (3) twice the amount of the financial injury, whichever is greatest, or imprisoned for not more than 10 years, or both, if the property obtained, or attempted to be obtained, or the amount of the financial injury is the amount set forth in § 22-3571.01 or more.

(b) *Identity theft in the second degree.* — Any person convicted of identity theft shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 180 days, or both, if the property obtained, or attempted to be obtained, or the amount of the financial injury, has some value, or if another person is falsely accused of, or arrested for, committing a crime because of the use, without permission, of that person's personal identifying information.

(c) *Enhanced penalty.* — Any person who commits the offense of identity theft against an individual who is 65 years of age or older, at the time of the offense, may be punished by a fine of up to 1½ times the maximum fine otherwise authorized for the offense and may be imprisoned for a term of up to 1½ times the maximum term of imprisonment otherwise authorized for the offense, or both. It is an affirmative defense that the accused:

(1) Reasonably believed that the victim was not 65 years of age or older at the time of the offense; or

(2) Could not have determined the age of the victim because of the manner in which the offense was committed.

(Dec. 1, 1982, D.C. Law 4-164, § 127c, as added Mar. 27, 2004, D.C. Law 15-106, § 2(c), 50 DCR 9809; Apr. 24, 2007, D.C. Law 16-306, § 218, 53 DCR 8610; Dec. 10, 2009, D.C. Law 18-88, § 214(k), 56 DCR 7413; June 3, 2011, D.C. Law 18-377, § 12(d), 58 DCR 1174; June 11, 2013, D.C. Law 19-317, §§ 111(a)(2), 205(n), 60 DCR 2064.)

Section references. — This section is referenced in § 16-801.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "twice" for "3 times" twice in (a); and substituted "not more than the amount set forth in § 22-3571.01" for "$10,000" in (a), and for "not more than $1,000" in (b).

Emergency legislation.

For temporary (90 days) amendment of this section, see §§ 111(a)(2) and 205(n) of the Criminal Fine Proportionality Emergency Amendment Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter IV. Stolen Property.

§ 22-3231. Trafficking in stolen property.

(a) For the purposes of this section, the term "traffics" means:

(1) To sell, pledge, transfer, distribute, dispense, or otherwise dispose of property to another person as consideration for anything of value; or

(2) To buy, receive, possess, or obtain control of property with intent to do any of the acts set forth in paragraph (1) of this subsection.

(b) A person commits the offense of trafficking in stolen property if, on 2 or more separate occasions, that person traffics in stolen property, knowing or having reason to believe that the property has been stolen.

(c) It shall not be a defense to a prosecution under this section, alone or in conjunction with § 22-1803, that the property was not in fact stolen, if the accused engages in conduct which would constitute the crime if the attendant circumstances were as the accused believed them to be.

(d) Any person convicted of trafficking in stolen property shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 131, 29 DCR 3976; Apr. 20, 2012, D.C. Law 19-120, § 101(b), 58 DCR 11235; June 11, 2013, D.C. Law 19-317, § 205(o), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3202, § 23-546, and § 50-1403.02.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (d).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(o) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3232. Receiving stolen property.

(a) A person commits the offense of receiving stolen property if that person buys, receives, possesses, or obtains control of stolen property, knowing or having reason to believe that the property was stolen.

(b) It shall not be a defense to a prosecution under this section, alone or in conjunction with § 22-1803, that the property was not in fact stolen, if the accused engages in conduct which would constitute the crime if the attendant circumstances were as the accused believed them to be.

(c)(1) Any person convicted of receiving stolen property shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 7 years, or both, if the value of the stolen property is $1,000 or more.

(2) Any person convicted of receiving stolen property shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned not more than 180 days, or both, if the stolen property has some value.

(d) For the purposes of this section, the term "stolen property" includes property that is not in fact stolen if the person who buys, receives, possesses, or obtains control of the property had reason to believe that the property was stolen.

(Dec. 1, 1982, D.C. Law 4-164, § 132, 29 DCR 3976; Aug. 20, 1994, D.C. Law 10-151, § 113(f), 41 DCR 2608; June 3, 2011, D.C. Law 18-377, § 12(e), 58 DCR 1174; Apr. 20, 2012, D.C. Law 19-120, § 101(c), 58 DCR 11235; June 11, 2013, D.C. Law 19-317, § 205(p), 60 DCR 2064.)

Section references. — This section is referenced in § 22-3202, § 23-546, § 23-581, and § 50-1403.02.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $5,000" in (c)(1), and for "not more than $1,000" in (c)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(p) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3233. Altering or removing motor vehicle identification numbers.

(a) It is unlawful for a person to knowingly remove, obliterate, tamper with, or alter any identification number on a motor vehicle or a motor vehicle part.

(b)(1) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than 180 days, or fined not more than the amount set forth in § 22-3571.01, or both.

(2) Any person who violates subsection (a) of this section shall be guilty of a felony if the value of the motor vehicle or motor vehicle part is $1,000 or more and, upon conviction, shall be imprisoned for not more than 5 years, or fined not more than the amount set forth in § 22-3571.01, or both.

(c) For the purposes of this section, the term:

(1) "Identification number" means a number or symbol that is originally inscribed or affixed by the manufacturer to a motor vehicle or motor vehicle part for purposes of identification.

(2) "Motor vehicle" means any automobile, self-propelled mobile home, motorcycle, motor scooter, truck, truck tractor, truck semi trailer, truck trailer, bus, or other vehicle propelled by an internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired.

(Dec. 1, 1982, D.C. Law 4-164, § 133, as added Apr. 24, 2007, D.C. Law 16-306, § 217, 53 DCR 8610; June 3, 2011, D.C. Law 18-377, § 12(f), 58 DCR 1174; June 11, 2013, D.C. Law 19-317, § 205(q), 60 DCR 2064.)

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b)(1), and for "not more than $5,000" in (b)(2).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(q) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3234. Altering or removing bicycle identification numbers.

(a) It is unlawful for a person to knowingly remove, obliterate, tamper with, or alter any identification number on a bicycle or bicycle part.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than 180 days, or fined not more than the amount set forth in § 22-3571.01, or both.

(c) For the purposes of this section, the term:

(1) "Bicycle" shall have the same meaning as provided in § 50-1609(1).

(2) "Identification number" shall have the same meaning as provided in § 50-1609(1A).

(Dec. 1, 1982, D.C. Law 4-164, § 134, as added May 1, 2008, D.C. Law 17-149, § 3, 55 DCR 1272; June 11, 2013, D.C. Law 19-317, § 205(r), 60 DCR 2064.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(r) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter V. Forgery.

§ 22-3242. Penalties for forgery.

(a) Any person convicted of forgery shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both, if the written instrument purports to be:

(1) A stamp, legal tender, bond, check, or other valuable instrument issued by a domestic or foreign government or governmental instrumentality;

(2) A stock certificate, bond, or other instrument representing an interest in or claim against a corporation or other organization of its property;

(3) A public record, or instrument filed in a public office or with a public servant;

(4) A written instrument officially issued or created by a public office, public servant, or government instrumentality;

(5) A check which upon its face appears to be a payroll check;

(6) A deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status; or

(7) A written instrument having a value of $10,000 or more.

(b) Any person convicted of forgery shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both, if the written instrument is or purports to be:

(1) A token, fare card, public transportation transfer certificate, or other article manufactured for use as a symbol of value in place of money for the purchase of property or services;

(2) A prescription of a duly licensed physician or other person authorized to issue the same for any controlled substance or other instrument or devices used in the taking or administering of controlled substances for which a prescription is required by law; or

(3) A written instrument having a value of $1,000 or more.

(c) Any person convicted of forgery shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 3 years, or both, in any other case.

(Dec. 1, 1982, D.C. Law 4-164, § 142, 29 DCR 3976; June 3, 2011, D.C. Law 18-377, § 12(g), 58 DCR 1174; June 11, 2013, D.C. Law 19-317, § 205(s), 60 DCR 2064.)

Section references. — This section is referenced in § 16-4901.

Effect of amendments.

The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (a), for "not more than $5,000" in (b), and for "not more than $2,500" in (c).

Emergency legislation.

For temporary (90 days) amendment of this section, see § 205(s) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

Subchapter VI. Extortion.

§ 22-3251. Extortion.

(a) A person commits the offense of extortion if:

(1) That person obtains or attempts to obtain the property of another with the other's consent which was induced by wrongful use of actual or threatened force or violence or by wrongful threat of economic injury; or

(2) That person obtains or attempts to obtain property of another with the other's consent which was obtained under color or pretense of official right.

(b) Any person convicted of extortion shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 10 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 151, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(t), 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $10,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(t) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.

§ 22-3252. Blackmail.

(a) A person commits the offense of blackmail, if, with intent to obtain property of another or to cause another to do or refrain from doing any act, that person threatens:

(1) To accuse any person of a crime;

(2) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(3) To impair the reputation of any person, including a deceased person.

(b) Any person convicted of blackmail shall be fined not more than the amount set forth in § 22-3571.01 or imprisoned for not more than 5 years, or both.

(Dec. 1, 1982, D.C. Law 4-164, § 152, 29 DCR 3976; June 11, 2013, D.C. Law 19-317, § 205(u), 60 DCR 2064.)

Section references. — This section is referenced in § 23-546.

Effect of amendments. — The 2013 amendment by D.C. Law 19-317 substituted "not more than the amount set forth in § 22-3571.01" for "not more than $1,000" in (b).

Emergency legislation. — For temporary (90 days) amendment of this section, see § 205(u) of the Criminal Fine Proportionality Emergency Act of 2013 (D.C. Act 20-45, April 1, 2013, 60 DCR 5400, 20 DCSTAT 1300).

Legislative history of Law 19-317. — See note to § 22-3212.

Editor's notes. — Applicability of D.C. Law 19-317: Section 401 of D.C. Law 19-317 provided that the act shall apply only to offenses committed on or after June 11, 2013.